

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.22.327, 24.22.331, and) PROPOSED AMENDMENT
24.22.335 pertaining to incumbent)
worker training)

TO: All Concerned Persons

1. On April 13, 2023, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j81319337203>
Meeting ID: 813 1933 7203, Passcode: 021501
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 813 1933 7203, Passcode: 021501

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on April 6, 2023, to advise us of the nature of the accommodation that you need. Please contact Brandon Kirchgasler at P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-5466; Montana Relay 711; or e-mail laborlegal@mt.gov.

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

24.22.327 GENERAL REQUIREMENTS REGARDING TRAINING

(1) through (1)(b)(i) remain the same.

(ii) certified ~~education~~ training that meets the criteria contained in (5); or

(iii) through (4) remain the same.

(5) Certified ~~education~~ training must result in a nationally recognized or industry-recognized credential being awarded in recognition of attainment of a measurable technique or occupational skill, based on standards developed or endorsed by employers.

(6) Training ~~may be provided in any of the following methods:~~ must include direct, live access to the trainer.

~~(a) classroom training where the student travels to the trainer;~~

~~(b) on-site training where the trainer travels to the grantee's business and customizes training to the business's needs; or~~

~~(c) online training that is interactive, where:~~

~~(i) the student has access to the trainer;~~

~~(ii) the student demonstrates or practices what the student is learning; and~~

(iii) ~~the online training has the capability to provide suitable proof of completion.~~

AUTH: 53-2-1220, MCA

IMP: 53-2-1217, 53-2-1218, MCA

REASON: Reasonable necessity exists to amend (1) and (5) to refer to "training" rather than "education," which better aligns with the purposes of the incumbent worker training (IWT) program. Reasonable necessity exists to amend (6) to simplify and clarify training requirements—specifically, that trainers must be available to trainees "live," whether in person or online, so as to answer questions and provide interaction.

24.22.331 GRANT APPLICATION PROCESS (1) through (8) remain the same.

(9) Applications must be received by the department with sufficient time for processing. Generally, ~~20~~ 14 calendar days prior to the date training begins is sufficient for the department to:

(a) through (10) remain the same.

AUTH: 53-2-1220, MCA

IMP: 53-2-1217, 53-2-1218, MCA

REASON: Section (9) is proposed to be amended to reflect a shorter review time necessary for the department.

24.22.335 EVALUATION OF GRANT APPLICATIONS AND LIMITATIONS

(1) ~~Except as provided in (a) and (b), the~~ The department provides grant funding on a first-come, first-served basis, in accordance with the receipt by the department of a complete application for funding.

(a) As required by 53-2-1218, MCA, applications will be reviewed based on funding evenly distributed across fiscal year quarters and by employer size. Funding not used during a quarter will be carried over to the next quarter to employers of any size. Funding assigned to the program but not utilized during the fiscal year will not be carried forward. During the quarter from July 1, 2023, through September 30, 2023, solely employers with 50 or fewer workers are eligible for grants.

~~(a) (b)~~ Although incumbent worker training grants are generally available on a first-come, first-served basis, the department reserves the right to defer the review of multiple grant applications submitted by any single employer, in order to provide funding to employers on an equitable basis. ~~The department encourages employers not to submit multiple applications "shotgun style," but instead make applications that are well tailored to the specific needs of the employer and the employer's workforce.~~

(b) remains the same but is renumbered (c).

(2) through (7)(a) remain the same.

(b) \$2,000 for applications received between July 1, 2023, and September 30, 2023, and \$2,500 for applications received on or after October 1, 2023, per

incumbent worker working an average of 35 or more hours a week, predominantly year round.

AUTH: 53-2-1220, MCA

IMP: 53-2-1217, 53-2-1218, MCA

REASON: Reasonable necessity exists to amend (1) to implement changes from House Bill(HB) 41 (2023) for the program. In particular, the legislation established size-based criteria for IWT grant awards. The proposed amendment specifies grant funding carry forward and distribution of funding. Reasonable necessity exists to amend (7) to reflect the availability of increased grant awards. Both changes will occur on the effective date of HB 41–October 1, 2023.

4. Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or to P.O. Box 1728; Helena, Montana 59624. Comments must be received no later than 5:00 p.m., April 21, 2023.

5. An electronic copy of this notice of public hearing is available at sosmt.gov/ARM/register.

6. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on March 2, 2023, by electronic mail.

8. Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice will have a significant, direct, and positive impact upon small businesses. The department expects that any small business which seeks to train and upskill its workers will find benefit in the statutory increase to grant awards and specificity in timing of how awards will be issued.

9. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR

Quinlan L. O'Connor

Alternate Rule Reviewer

/s/ LAURIE ESAU

Laurie Esau, Commissioner

DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 14, 2023.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.2.405 pertaining to	)	AMENDMENT
Department of Livestock Meat)	
Inspection and Milk and Egg Bureau	)	NO PUBLIC HEARING
Fees	)	CONTEMPLATED

TO: All Concerned Persons

1. The Department of Livestock proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on April 18, 2023, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

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

32.2.405 DEPARTMENT OF LIVESTOCK MEAT INSPECTION AND MILK AND EGG BUREAU FEES (1) remains the same.

(2) Milk and egg inspection:

(a) through (o) remain the same.

(p) Milk tank truck \$5.00 or milk transportation company \$25.00, whichever is less

AUTH: 81-1-102, 81-9-201, 81-22-102, MCA

IMP: 81-1-112, 81-9-201, 81-9-411, 81-20-201, 81-21-102, 81-22-201, 81-22-204, 81-22-205, 81-22-208, 81-23-202, MCA

REASON: The department has adopted and incorporated by reference the Pasteurized Milk Ordinance (PMO) in ARM 32.8.101(2). Section 3. PERMITS, Administrative Procedures, ISSUANCE OF PERMITS requires "Every...milk tank truck, milk transportation company and...milk tank truck cleaning facility operator shall hold a valid permit." To comply with the adopted and incorporated rule, the department is adding the above fee and permit.

Estimated revenue from this new license is \$50 to general fund based on two known companies hauling Grade A milk.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Livestock, P.O. Box 202001, Helena, Montana, 59620-2001; telephone (406) 444-9321; fax (406) 444-1929; or e-mail MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., April 21, 2023.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Executive Officer at the above address no later than 5:00 p.m., April 21, 2023.

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

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

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

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

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

/s/ Darcy Alm
Darcy Alm
Rule Reviewer

/s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Department Livestock

Certified to the Secretary of State March 14, 2023.

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 37.70.101, 37.70.102,	)	PROPOSED AMENDMENT
37.70.107, 37.70.110, 37.70.115,)	
37.70.305, 37.70.311, 37.70.312,)	
37.70.401, 37.70.402, 37.70.406,)	
37.70.407, 37.70.408, 37.70.602, and)	
37.70.901 pertaining to the Low)	
Income Home Energy Assistance)	
Program (LIHEAP))	

TO: All Concerned Persons

1. On April 13, 2023, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/84932025039?pwd=ZUU1UDhJa01aNEIRS0J4Z2I3YTdXZz09>, meeting ID: 849 3202 5039; and password 883724 or

(b) Dial by telephone +1 646 558 8656, meeting ID: 849 3202 5039, and password 883724. Find your local number: <https://mt-gov.zoom.us/j/84932025039>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on March 30, 2023, to advise us of the nature of the accommodation that you need. Please contact the Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-3026; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

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

37.70.101 SAFEGUARDING/SHARING INFORMATION (1) ~~Disclosure of~~
Disclosing information ~~concerning~~ about applicants for or recipients of low income
home energy assistance is restricted to purposes directly connected with the
administration of such aid. Such purposes include establishing eligibility,
determining amount of assistance, and providing benefits to or on behalf of
applicants and recipients.

(a) Proper requests for information from a government authority, a court, or a law enforcement agency will be honored and the information released along with a

notification of the confidentiality of the information and the penalty for misuse of such information.

(b) Whenever possible, the department will attempt to obtain prior consent from the applicant or recipient to release information about the applicant or recipient, except in. Notification will be provided after release of information in the following situations: emergency situations; ~~where notification will be given after the release of information and~~ in cases where the information is released for legal and investigative actions concerning fraud; collection of support, and third party medical recovery.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.102 ROLE OF THE LOCAL CONTRACTOR (1) The department will contract with appropriate community-based organizations in the state to provide outreach and to receive and process applications for the low income home energy assistance and weatherization programs.

(a) In providing outreach, the local contractor performs specified activities designed to inform all potentially eligible households in the contract area of the existence of and the benefits available under the low income home energy assistance program. ~~Such application may also constitute an application for weatherization.~~

(b) In receiving and processing applications, the local contractor determines household eligibility and benefit award under the rules contained in this chapter. An application for low income home energy assistance may also constitute an application for weatherization.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.107 REFERRALS TO THE QUALITY ASSURANCE DIVISION
OFFICE OF INSPECTOR GENERAL, PROGRAM COMPLIANCE BUREAU

(1) ~~The Quality Assurance Division Office of Inspector General,~~ Program Compliance Bureau (PCB), has the power and duty to:

(a) investigate matters relating to ~~LIEAP~~ LIHEAP including, ~~but not limited to,~~ applications, awards of benefits, and information received relating to an application;

(b) remains the same.

(c) determine whether the overpayment was due to:

(i) and (ii) remain the same.

(2) Local contractors must make reports of possible overpayments or fraud to the ~~department's~~ Department of Public Health and Human Services, Human and Community Services Division (HCSD), P.O. Box 202956, Helena, MT 59620-2956. HCSD will review cases ~~prior to~~ determine whether to make a referral to the PCB. The PCB may refer the matter to the Montana Department of Justice or the county attorney of the county in which the person resides for further action.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.110 FRAUD/TRANSFER OF RESOURCES (1) A person who knowingly obtains LIHEAP benefits to which he or she is not entitled by means of a willfully purposely or knowingly false statement, representation, or impersonation, or other fraudulent device, ~~LIHEAP benefits to which he or she is not entitled~~ is guilty of theft as provided in 45-6-301, MCA, and is ineligible for assistance for the entire current heating season.

~~(2) If a person appears to have received assistance fraudulently, the local contractor must report all facts of the matter to the department's Human and Community Services Division (HCSD) to determine if the case should be referred to the department's Quality Assurance Division, Program Compliance Bureau (PCB). The PCB may refer the matter to the Department of Justice or the county attorney of the county in which the person resides for further action.~~

(3) and (4) remain the same, but are renumbered (2) and (3).

~~(5)~~(4) Fuel assistance will not be granted to a person who has deprived himself or herself, directly or indirectly, of any resources for the purpose of qualifying for assistance. A person who has transferred resources or interest in resources within one year of the date of application without receiving adequate consideration in money or money's worth will be presumed to have made such transfer for the purpose of qualifying for assistance.

(a) A person may submit evidence that he or she did not make the transfer of resources to qualify for ~~LIHEAP~~ LIHEAP benefits.

(b) remains the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.115 OVERPAYMENTS AND UNDERPAYMENTS AND OVERPAYMENTS (1) When it is discovered that an administrative error resulted in an underpayment of ~~LIHEAP~~ LIHEAP benefits, it may be corrected by increasing the benefit award to cover the underpayment.

(a) remains the same.

(2) Except as provided in (3), current and future program year payments of ~~LIHEAP~~ LIHEAP benefits will be reduced the full amount of prior overpayments, unless the administrative cost of recouping the overpayment would exceed the amount of such overpayment.

~~(a) Additionally, cases in which a person willfully made false statements or withheld information causing overpayment must be referred to the department's Human and Community Services Division (HCSD) to determine if the case should be forwarded to the department's Quality Assurance Division, Program Compliance Bureau (PCB) for determination of fraud as provided in ARM 37.70.110.~~

(3) When it is discovered that the local contractor caused an overpayment of ~~LIHEAP~~ LIHEAP benefits, at the sole discretion of the department, the local contractor may be required to repay the entire overpayment to the department, rather than the overpayment being withheld from the household's future payments.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.305 APPLICATION (1) Except as provided in (4), a new application for ~~LIEAP~~ LIHEAP benefits must be made for each new heating season and when a household moves to a different residence during the heating season. ~~Any adult member of the household may file a signed written application on the form prescribed by the department at the office of the local contractor in the area where the household resides. If necessary, the local contractor will provide assistance in completing the application form.~~

(2) The application form may be submitted ~~by mail or by other means~~ to the local contractor's office. ~~The department or its local contractor may accept applications at locations other than the local contractor's office as designated by the department or its local contractor.~~

(3) An application for ~~LIEAP~~ LIHEAP benefits must be filed during the heating season for which assistance is being sought, that is, between October 1 and April 30, except as provided in (4). If April 30 falls on a weekend or holiday observed by Montana state government, the local contractor must accept applications on the next business day after the weekend or ~~Montana state government observed holiday~~. However, at the option of the department, a household's application for certain types of deliverable heating fuel which are sold at lower prices during the summer months or for emergency services may be filed prior to October 1 of the heating season for which a household is seeking assistance. In the case of households who use other types of fuel and who are not seeking emergency services, the department may in its discretion accept applications prior to October 1.

(4) Publicly subsidized housing households whose energy costs are included as a fixed portion of their rent, or households ~~who~~ that reside in publicly subsidized housing and have an obligation to pay a base-load electric bill, are not eligible for a regular ~~LIEAP~~ LIHEAP benefit computed using the benefit matrices and multipliers in the ~~LIEAP~~ LIHEAP Benefit Award Matrix and Table of Multipliers for the ~~2021-2022~~ current heating season. However, these households are eligible for weatherization assistance as provided in ARM Title 37, chapter 71 and a modified ~~LIEAP~~ LIHEAP benefit. The modified ~~LIEAP~~ LIHEAP benefit is equal to five percent of the amount of a regular ~~LIEAP~~ LIHEAP benefit computed using the benefit matrices and multipliers in ARM 37.70.601 or a minimum payment of \$25, whichever is greater, paid to the household annually. Households determined eligible for the modified ~~LIEAP~~ LIHEAP benefit whose economic and housing situation does not change are eligible for a period of five years.

(5) Households residing in ~~P~~publicly subsidized housing that ~~households who~~ move into nonsubsidized housing during the five-year eligibility period may reapply for a prorated benefit for the current heating season based on the household's new circumstances as provided in ARM 37.70.602. The household may file a new application for each subsequent heating season as long as the household lives in nonsubsidized housing, as provided in (1).

(6) Households residing in ~~P~~publicly subsidized housing that ~~households who~~ move to another publicly subsidized housing unit during the five-year eligibility period may file a new application for a modified ~~LIEAP~~ LIHEAP benefit for another five-year period, which will run from the date of the new application, if the household's energy

costs are included as a portion of its rent or if it has an obligation to pay a base-load electric bill.

(7) No household or any of its members will ~~be excluded from participation in LIHEAP or be discriminated against in regard to the amount of benefits or in any other regard~~ on the basis of race, color, religion, sex, culture, age, creed, marital status, physical or mental disability, political beliefs, or national origin. This includes discrimination which affects participation in LIHEAP and benefit amount.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.311 PROCEDURES FOLLOWED IN PROCESSING APPLICATIONS AND VERIFIABLE ELIGIBILITY REQUIREMENTS (1) The procedures for determining eligibility for ~~LIHEAP~~ LIHEAP benefits are as follows:

(a) through (d) remain the same.

(2) Eligibility requirements that must be verified include a social security number (SSN) for each household member and proof of U.S. citizenship, or proof of status as a qualified alien as defined in 8 U.S.C. § 1641(b). Other eligibility requirements that may be verified include:

(a) photo identification for each household member 18 years ~~of age~~ or older may be required if the SSN has not been verified;

(b) through (d) remain the same.

(e) proof of lack of tax dependency status for household members enrolled at least half time in an institution of higher education;

(f) remains the same.

(g) receipts to support paid eligible energy costs when a household seeks direct reimbursement for paid eligible energy costs as provided in ARM 37.70.607. Failure to provide receipts to the local contractor by June 20 or the end of the heating season, whichever is later, will result in forfeiture of any remaining benefits for that heating season.

(3) If the local contractor reasonably doubts the accuracy of ~~the~~ information provided by the household, then the type of dwelling, ~~the~~ number of bedrooms, ~~the~~ primary heating fuel, and ~~the~~ primary fuel vendor must also be verified.

(4) The local contractor may ~~at its option~~ conduct an interview with household members in person or by telephone, if necessary, to determine eligibility. In cases where the local contractor considers an interview to be necessary and neither the local contractor's office nor a telephone is reasonably accessible to the household, the local contractor will conduct the interview at some place which is reasonably convenient for the household and the local contractor.

(5) remains the same.

(6) A household's eligibility and benefit amount will be determined based on the household's circumstances ~~in regard to~~ regarding the following on the date the application is filed:

(a) through (g) remain the same.

(7) Eligibility ~~in regard to~~ regarding income is based on the household's income ~~in the three months~~ for one month immediately preceding the month of

application, which will be annualized by multiplying that figure by ~~four~~ 12 to arrive at the household's annual income.

(8) remains the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.312 NOTIFICATION OF ELIGIBILITY (1) An individual who ~~makes application~~ applies for low income home energy assistance will be notified in writing whether the application has been approved or denied and, if the application is approved, of the benefit amount. If the application is denied, the notice shall state the reason for ~~the~~ denial. A notice approving or denying an application shall advise the applicant of the right to a fair hearing as provided in ARM 37.5.307.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.401 DEFINITIONS (1) "Annual gross income" means all nonexcluded income including, ~~but not limited to,~~ wages, salaries, commissions, tips, profits, gifts, interest or dividends, retirement pay, workers' compensation, unemployment compensation, social security retirement and disability payments, supplemental security income payments, veterans administration payments, cash public assistance benefits such as temporary assistance for needy families or tribal, state, or county general relief, and capital gains received by the members of the household ~~in the three months~~ for one month immediately preceding the month of application, which will be annualized by multiplying that figure by ~~four~~ 12.

(a) For households with self-employment income, annual gross income means gross receipts for ~~the three months~~ one month immediately preceding the month of application minus self-employment deductions for the ~~three months~~ same time period ~~preceding the month of application,~~ which will be annualized by multiplying that figure by ~~four~~ 12. ~~For households with self-employment income, annual gross income means annual gross receipts minus self-employment deductions.~~

(2) "Applicant" means a person of ~~legal age~~ (18 years or older) or an emancipated minor, applying for ~~LIHEAP~~ LIHEAP benefits for all eligible household members in the household at the time of application. The applicant does not need to be an eligible member of the household.

(3) remains the same.

(4) "Child" means a person who is under age 18 and not emancipated.

(5) "Deliverable heating fuel" means heating fuel that can be delivered to the customer and stored for later use, for example, propane, fuel oil, kerosene, wood, or coal.

(6) "Disabled individual household" means a household in which ~~resides~~ at least one person who has been determined disabled based on the criteria for disability provided in Title II or Title XVI of the Social Security Act resides.

(7) "Elderly" means a person who is 60 years ~~of age~~ or older.

(8) "Eligible energy costs" means costs of the various types of energy supplied by the household's fuel vendors. Energy delivered by the household's fuel vendors prior to October 1 is ineligible for payment in the current heating season, except in the sole discretion of the department; Deliverable heating fuel charges incurred from July 1 through ~~September~~ April 30 for certain types of deliverable fuels (e.g., wood, coal, fuel oil, and propane) to heat a residence are eligible for payment in the current heating season. ~~Provided, however, that eligible energy costs may include energy delivered prior to October 1 for applications filed after September 30, when the type of fuel and the vendor's normal billing procedures make the above definition impracticable.~~ Eligible energy costs include tank rental and replacing valves on portable propane tanks, but not deposits or fuel tank set ups costs.

(9) "Eligible household member" is any person who is a U.S. citizen or qualified alien and is a member of a household that meets the ~~LIEAP~~ LIHEAP eligibility requirements.

(10) "Emancipated minor" is any person under the age of 18 ~~that who~~ who has been released from parental care or custody, and granted full legal rights and responsibilities as provided in 41-1-401, ~~MCA~~ or 41-1-503, MCA, or by order of a court having jurisdiction.

(11) "Federal fiscal year (FFY)" means the period from October 1 of one calendar year through September 30 of the next calendar year. For example, federal fiscal year ~~2016~~ 2023 means the period from October 1, ~~2015~~ 2022, through September 30, ~~2016~~ 2023.

(12) "Gross receipts" applies to households with income from self-employment and means all income before any deductions, including any nonexcluded income not from self-employment, which was received by members of the household ~~in the three months~~ one full month immediately preceding the month of application.

(13) "Heating season" means the period from October 1 to April 30. For example, the ~~2015~~ 2022 through ~~2016~~ 2023 heating season is the period from October 1, ~~2015~~ 2022, through April 30, ~~2016~~ 2023. The department may, ~~however~~, in its sole discretion, extend the heating season beyond April 30. If the heating season is extended beyond April 30, ~~LIEAP~~ LIHEAP benefits may be applied against energy costs incurred in the additional months of the heating season, but no applications for benefits may be filed after April 30 except as provided in ARM 37.70.305. If the department extends the end of the heating season beyond April 30, requests for reimbursement must be received by the local contractor no later than June 20 ~~of the same year~~ or the end of the heating season, whichever is later.

(14) and (15) remain the same.

(16) "Ineligible household member" is a person who is not a U.S. citizen or qualified alien ~~that who~~ who is a member of a household that meets the ~~LIEAP~~ LIHEAP eligibility requirements. An ineligible household member of legal age may apply for ~~LIEAP~~ LIHEAP benefits on behalf of eligible household members.

(17) and (18) remain the same.

(19) "Licensed group-living situation" means a facility that is licensed by the department and in which housing is provided in a home-like setting on a long term or permanent basis to individuals or households, including community homes for persons with developmental disabilities licensed under 53-20-305, MCA. It does not

include community homes for persons with severe physical disabilities licensed under 52-4-203, MCA, or youth care facilities licensed under 52-2-622, MCA, shelters for homeless or abused individuals, halfway houses, nursing homes or convalescent centers, or other residential treatment facilities which provide shelter in an institutional setting.

(20) "Life-threatening" means any of the conditions of emergency specified in ARM 37.70.901 that may cause death or severe permanent damage to the health of one or more household members.

(21) "Local contractor" means a community-based organization with which the department has contracted to provide outreach and to receive and process applications for ~~LIEAP~~ LIHEAP and the weatherization assistance program.

(22) remains the same.

(23) "Member receiving supplemental security income (SSI), or temporary assistance for needy families (TANF)-funded cash assistance" means any member of a household whose needs are included in the SSI, TANF-funded cash assistance, or any person whose income and resources are considered in determining eligibility for those programs.

(24) "Mobile home" means a singlewide or doublewide trailer, mobile home, or manufactured home, ~~camper, or recreational vehicle.~~

(25) "Modified ~~LIEAP~~ LIHEAP benefit" means the amount paid to eligible households who reside in publicly subsidized housing and whose energy costs are included as a fixed portion of their rent or who have an obligation to pay a base-load electric bill. The modified ~~LIEAP~~ LIHEAP benefit is equal to ~~5~~ five percent of the amount of a regular ~~LIEAP~~ LIHEAP benefit computed using the benefit matrices and multipliers in the ~~LIEAP~~ LIHEAP Benefit Award Matrix and Table of Multipliers for the ~~2021-2022~~ current heating season or a minimum payment of \$25, whichever is greater, paid to the household annually. Households determined eligible for the publicly subsidized housing modified ~~LIEAP~~ LIHEAP benefit, whose economic and housing situation does not change, are income eligible for a period of five years.

(26) "Monthly gross income" means all nonexcluded income, including ~~but not limited to~~ wages, salaries, commissions, tips, profits, gifts, interest or dividends, retirement pay, workers' compensation, unemployment compensation, social security retirement and disability payments, supplemental security income payments, veterans administration payments, cash public assistance benefits such as ~~temporary assistance for needy families~~ TANF or tribal, state, or county general relief, and capital gains, received by the members of the household in a calendar month.

(a) through (29) remain the same.

(30) "Nontraditional dwelling unit" means dwelling units that include mobile shelters and other structures not designed for year-round human habitation. Mobile shelters include, ~~but are not limited to,~~ RV's and campers.

(31) "Paid eligible energy costs" means ~~out-of-pocket expenditures~~ heating costs paid by an eligible household

(a) in the form of rent; ~~payments or direct payments~~

(b) to a fuel vendor account not in a household member's name; or person responsible for the fuel account for energy costs incurred

(c) to another party during the heating season, for the dwelling in which the household resides at the time of application.

(32) remains the same.

(33) "Qualified alien" means an alien who, at the time of submitting a ~~LI~~LIHEAP application, is a qualified alien as defined by 8 U.S. Code ~~C.~~ § 1641(b).

(34) "Self-employment deductions" means all costs, excluding depreciation costs, necessary for the creation of any income from self-employment. As an alternative, the local contractor may, at the request of the household, deduct 40 percent from the annual gross receipts for self-employment deductions.

(35) "Shelters" mean a dwelling unit or units whose principal purpose is to house on a temporary basis, individuals who may or may not be related to one another, including ~~transients~~ homeless people, ~~students~~ people living in student housing, or other individuals seeking short-term or nonpermanent living situations.

(36) "Single elderly household" means a household consisting of one person only, who is 60 years ~~of age~~ or older.

(37) "Single family unit" means a building which contains a single ~~shelter~~ residence or rental unit for living purposes.

(38) "State fiscal year" means the period from July 1 of one calendar year through June 30 of the next calendar year. For example, state fiscal year ~~2016~~ 2023 means the period from July 1, ~~2015~~ 2022, through June 30, ~~2016~~ 2023.

(39) "Traditional dwelling unit" means a residential housing structure, including, ~~without limitation,~~ a mobile home ~~and or~~ a modular home when permanently connected to the required utilities (including plumbing, heating, and electrical systems contained therein) and designed to be used as a permanent residence.

(40) "U.S. Department of Health and Human Services Poverty Guidelines" means the poverty guidelines computed annually and published each year in the Federal Register by the U.S. Department of Health and Human Services.

(41) and (42) remain the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.402 GENERAL ELIGIBILITY REQUIREMENTS, ELIGIBILITY REQUIREMENTS FOR CERTAIN TYPES OF INDIVIDUALS, AND HOUSEHOLDS

(1) Households that are obligated to pay for fuel to heat their homes are eligible for ~~LI~~LIHEAP benefits.

(2) Except as provided elsewhere in this rule, households which consist solely of members who are eligible for and receiving ~~supplemental nutritional assistance payments (SNAP), supplemental security income (SSI), or TANF-funded cash assistance~~ are automatically financially eligible for ~~LI~~LIHEAP benefits.

(3) Households which consist of members receiving SNAP, SSI, or TANF-funded cash assistance, and other individuals whose income and resources were not considered in determining eligibility for SNAP, SSI, or TANF-funded cash assistance, are not automatically eligible for ~~LI~~LIHEAP benefits but must meet the financial requirements set forth in this rule.

(4) Individuals living in shelters, including but not limited to, recipients of SNAP, SSI, or TANF-funded cash assistance, are not eligible for ~~LIEAP~~ LIHEAP benefits. Individuals living in licensed group-living situations as defined in ARM 37.70.401 may be eligible if they meet all other requirements for eligibility. Individuals living in licensed group-living situations which are not group-living situations as defined in ARM 37.70.401 are not eligible for ~~LIEAP~~ LIHEAP benefits.

(5) Households which contain a member who is enrolled at least half time in an institution of higher education and who was claimed for the previous tax year as a dependent for federal income tax purposes by a taxpayer who is not a member of a household ~~which is eligible in the current heating season, or which would be eligible in the current heating season if the household applied,~~ are ineligible for ~~LIEAP~~ LIHEAP benefits.

(6) Households that are eligible for or that have received ~~LIEAP~~ LIHEAP benefits through a tribal program funded by the U.S. Department of Health and Human Services may not receive ~~LIEAP~~ LIHEAP benefits from the department for the same heating season, unless the household changes residence during the heating season and the household is no longer eligible for tribal ~~LIEAP~~ LIHEAP benefits; in that case, the household may apply for a prorated ~~LIEAP~~ LIHEAP benefit based on the household's new circumstances as provided in ARM 37.70.602. ~~Additionally, any individual who was a member of a household that received LIEAP benefits through tribal program funded by the U.S. Department of Health and Human Services may not receive LIEAP benefits from the department for the same heating season unless the individual leaves the household that received tribal LIEAP benefits during the heating season and is no longer eligible for tribal LIEAP benefits; in that case the individual may apply for a prorated LIEAP benefit from the department for the same heating season based on the circumstances of the individual's new household as provided in ARM 37.70.602.~~

(7) Residents of publicly subsidized housing whose energy costs are included as a fixed portion of their rent or who reside in publicly subsidized housing and have an obligation to pay a base-load electric bill are not eligible for a regular ~~LIEAP~~ LIHEAP benefit computed using the benefit matrices and multipliers in the ~~LIEAP~~ LIHEAP Benefit Award Matrix and Table of Multipliers for the ~~2021-2022~~ current heating season. However, these households are eligible for weatherization assistance as provided for in ARM Title 37, chapter 71 and a modified ~~LIEAP~~ LIHEAP benefit. The modified ~~LIEAP~~ LIHEAP benefit is equal to five percent of the amount of a regular ~~LIEAP~~ LIHEAP benefit, or a minimum payment of \$25, whichever is greater, paid to the household annually. Households determined eligible for the modified ~~LIEAP~~ LIHEAP benefit whose economic and housing situation does not change are eligible for a period of five years.

(8) In households consisting of eligible and ineligible household members, the income of all will be counted for benefit calculation purposes. Only the eligible household members will be counted ~~toward the total "number in the household"~~ when counting the number of household members for benefit calculation purposes.

(9) Current and future benefits will be denied to any persons and households who refuse to submit social security numbers or proof of U.S. citizenship or proof of status as a qualified alien as defined in 8 U.S.C. § 1641(b), or whose social security numbers, proof of residency, or citizenship cannot be verified.

AUTH: 53-2-201, MCA
IMP: 53-2-201, MCA

37.70.406 INCOME STANDARDS (1) Households with ~~one through up to~~ eight members with annual gross income at or below 60 percent of the estimated state median are eligible for ~~LIHEAP~~ LIHEAP benefits on the basis of income. Households with nine or more members are eligible for ~~LIHEAP~~ LIHEAP benefits on the basis of income only if the household's annual gross income is at or below 150 percent of the ~~2021~~ 2022 U.S. Department of Health and Human Services' poverty guidelines for a household of that size. Households with annual gross income above the applicable income standard are ineligible for ~~LIHEAP~~ LIHEAP benefits, unless the household is automatically financially eligible for ~~LIHEAP~~ LIHEAP benefits as provided in ARM 37.70.402 because all members of the household are receiving SNAP, SSI, or TANF-funded cash assistance.

(2) The department adopts and incorporates by reference the department's Low Income Home Energy Assistance Program (~~LIHEAP~~) (LIHEAP) Table of Income Standards, ~~2021-2022~~ 2022-2023 heating season. The ~~LIHEAP~~ LIHEAP table of income standards, ~~2021-2022 heating season~~, is located at the department's web site at <http://www.dphhs.mt.gov/hcsd/energyassistance.aspx> <https://dphhs.mt.gov/hcsd/energyassistance/> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, P.O. Box 202956, Helena, MT 59620-2956.

(3) Households eligible for ~~LIHEAP~~ LIHEAP are also eligible for ~~LIHEAP~~ LIHEAP client education and outreach activities.

AUTH: 53-2-201, MCA
IMP: 53-2-201, MCA

37.70.407 EXCLUDED INCOME (1) The following types of unearned income are excluded or deducted when calculating income for LIHEAP eligibility:

(a) complementary assistance from other agencies and organizations which consists of goods and services not included in or duplicated by the low income home energy assistance benefit award;

(b) and (c) remain the same.

(d) extension of Old-Age, Survivors, and Disability Insurance (OASDI) benefits for 18 to 22 year olds who are full-time students;

(e) the value of the ~~supplemental nutrition assistance program~~ SNAP allotment;

(f) through (l) remain the same.

(m) all earnings, work incentive allowances, reimbursement of training related expenses, and other allowances and payments made to a participant in any program under the Workforce Investment Act of 1998, ~~20 USC 9201 et seq.~~;

(n) through (s) remain the same.

(t) foster care payments received for a foster child or adult if the ~~LIHEAP~~ LIHEAP applicant has chosen to exclude the foster child or adult from the household; such payments are not excluded if the applicant has chosen to include

the foster adult or child as a member of the household. Additionally, any foster care payments received ~~during the three months~~ one full month immediately preceding the month of application for a foster child or adult who is no longer living in the household at the time of application shall be excluded;

(u) through (w) remain the same.

(x) nonrecurring lump sum payments, such as, ~~but not limited to,~~ federal and state income tax refunds, ~~one-time~~ one-time insurance payments or worker's compensation payments, and retroactive SSI or SSDI payments, but only to the extent that the payment does not constitute income or benefits for ~~any of the three months~~ one full month immediately preceding the month of application. The funds received from a nonrecurring lump sum payment are considered as a resource until the funds are spent, ~~however~~;

(y) through (ab) remain the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.408 RESOURCES (1) through (3) remain the same.

(4) The department adopts and incorporates by reference the department's ~~LIHEAP~~ LIHEAP Table of Resource Standards, for the ~~2021-2022~~ 2022-2023 heating season. The ~~LIHEAP~~ LIHEAP table of resource standards is located at ~~the department's website at~~ <http://www.dphhs.mt.gov/hcsd/energyassistance.aspx> <https://dphhs.mt.gov/hcsd/energyassistance/> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, P.O. Box 202956, Helena, MT 59620-2956.

(5) and (5)(a) remain the same.

(b) ~~3~~ five percent.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.602 BENEFIT AWARDS: MISCELLANEOUS (1) through (3) remain the same.

(4) Benefit awards will be prorated for households new to the state or not previously responsible for heating costs from the date of residency or responsibility for the remainder of the heating season. Benefits will also be prorated for households who live in an area served by tribal ~~LIHEAP~~ LIHEAP if the household moves from the service area during the heating season and applies for benefits through Montana ~~LIHEAP~~ LIHEAP. Such households are eligible for a prorated benefit for the remainder of the heating season from the date the household moved from the service area served by the tribal ~~LIHEAP~~ LIHEAP.

(5) When a household changes primary fuel vendors, any remaining ~~LIHEAP~~ LIHEAP attributable credit balance will be returned to the department by the original fuel vendor. The department may reissue the unused portion of the benefit award to the new fuel vendor or reimburse ~~to~~ the household as provided in ARM 37.70.607.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.901 EMERGENCY ASSISTANCE (1) Emergency assistance under ~~LIHAP~~ LIHEAP may be provided to an eligible household in the following circumstances only when such circumstances present an imminent threat to the health and safety of the household:

(a) remains the same.

(b) weather or other forces outside the household's control ~~of the household~~ damages the household's dwelling and causes the dwelling to suffer a severe loss of heat;

(c) hazardous or potentially hazardous conditions exist in the household's primary home water heating system, space heating systems, or safety modifications to the system are required; ~~or~~

(d) remains the same.

(e) the household has a documented medical need for home ~~energy-related~~ energy-related safety modifications.

(2) Eligibility requirements:

(a) A household eligible for ~~LIHAP~~ LIHEAP that has an emergency as defined above is eligible for emergency assistance.

(b) A household that would be eligible for ~~LIHAP~~ LIHEAP had the household applied and which has an emergency as defined in (1) ~~above~~ is also eligible for emergency assistance.

(3) through (5)(a) remain the same.

(b) within 18 hours after the request is made, if the emergency is life-threatening. Life-threatening is defined as any of the conditions of emergency specified in (1) that may cause death or severe permanent damage to the health of one or more household members.

(6) The time limits contained in (5)(a) and (b) ~~for provision of emergency assistance~~ do not apply in a geographical area affected by a disaster or emergency as designated in (6)(a) and (b), as long as the designation is in effect, if the secretary of the U.S. Department of Health and Human Services determines that the disaster or emergency makes compliance with the time limits impracticable. This exception to the time limit applies when:

(a) through (7) remain the same.

(8) Emergency assistance funds may be used to replace a wood stove not approved by the ~~non-Environmental Protection Agency (EPA)-approved wood stove,~~ if the ~~non-EPA-approved~~ wood stove is the eligible household's primary source of heat and the household is eligible to receive a benefit award for wood during the heating season.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.70.101, 37.70.102, 37.70.107, 37.70.110, 37.70.115, 37.70.305,

37.70.311, 37.70.312, 37.70.401, 37.70.402, 37.70.406, 37.70.407, 37.70.408, 37.70.602, and 37.70.901.

ARM 37.70.101, 37.70.102, 37.70.107, 37.70.110, 37.70.115, 37.70.305, 37.70.311, 37.70.312, 37.70.401, 37.70.402, 37.70.406, 37.70.407, 37.70.408, 37.70.602, and 37.70.901

The department proposes changing all references to the Low Income Energy Assistance Program (LIEAP) to the Low Income Home Energy Assistance Program (LIHEAP). This change is necessary to reflect the change in program name. Duplicate language was removed to simplify the rules, and small grammatical and organizational changes were made throughout for clarification.

ARM 37.70.107, 37.70.115

The department proposes changing "Quality Assurance Division" to "Office of Inspector General" to reflect changes in the agency name. Duplicate language was removed to simplify the rule.

ARM 37.70.305, 37.70.401, and 37.70.402

The department proposes amending these rules to provide an updated LIHEAP Benefit Award Matrix for use during the 2022-2023 heating season. ARM 37.70.601 provides that, in most cases, an eligible household benefit is computed by multiplying the applicable base benefit amount by the applicable income/climatic adjustment multiplier. Both factors can be found in the LIHEAP Benefit Award Matrix. The amounts in the table of base benefits vary based on the type of heating fuel the household uses and the type and size of the household's dwelling. The benefit amounts also take into consideration available funding, fuel costs, and the number of households expected to receive benefits in a given heating season, all of which change from year to year. The amounts in the benefit tables in the LIHEAP Benefit Award Matrix for 2021-2022 have been revised based on estimates of the amount of funds available to pay LIHEAP benefits for the 2022-2023 heating season, the estimated number of households that will apply and be found eligible for LIHEAP for the 2022-2023 heating season, and fuel cost projections for the 2022-2023 heating season. If the amounts in the benefit tables are not updated for the 2022-2023 heating season, the benefits paid out for the heating season might exceed available funding or a large amount of funds that could help low income households heat their homes might go unspent. The 2021-2022 LIHEAP benefit award matrix will be used for the 2021-2022 heating season and the 2022-2023 benefit award matrix will be used for the 2022-2023 heating season.

ARM 37.70.311

The department proposes adding language to ARM 37.70.311(2)(g) to allow recipients additional time to submit paid receipts beyond June 20 when the heating season is extended.

ARM 37.70.311, 37.70.401; 37.70.407

The department proposes amending these rules to change LIHEAP eligibility related to household income from a three-month income assessment to a one-month

income assessment annualized. The U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, the federal agency that administers LIHEAP, issued guidance to encourage states to develop LIHEAP policies and procedures that do not discourage, delay, or deny LIHEAP benefits to eligible persons. Last year, 1,136 LIHEAP applications were denied due to missing information which included missing income verification. If a household fails to provide information or documentation necessary for a determination of eligibility within 45 days of the date of the most recent request for additional information, the application will be denied as per ARM 37.70.311(1)(c). Changing the household income verification from three months to one month annualized will decrease the number of denials and expedite the issuance of LIHEAP benefits to low-income households.

There has been a steady decline in received LIHEAP applications over the last five years. Determining LIHEAP eligibility based on one month annualized would reduce barriers for applicants, especially applicants who have recently lost their job or are seasonal workers.

The proposed one-month income calculation for LIHEAP would bring LIHEAP into alignment with the standard one-month prospective budgeting SNAP, TANF, and Medicaid use to calculate income.

ARM 37.70.401

The amendments to the dates used in the definitions of "federal fiscal year" and "heating season" are necessary to modernize the examples used in the rules. These amendments do not change the meaning of the terms.

ARM 37.70.406

The department proposes amending this rule to provide that it will use the U.S. Department of Health and Human Services' poverty guidelines for 2022-2023, rather than the federal poverty guidelines for 2021-2022, in the table of income standards used to determine eligibility for LIHEAP for the 2022-2023 heating season. This change is necessary to account for increases in the cost of living. The department uses the poverty guidelines for the current year because they are usually higher than the guidelines for the previous year, resulting in higher standards for the current heating season. If the department did not use the updated guidelines, some households might be ineligible for LIHEAP due to inflationary increases in the household's income that do not reflect an increase in buying power.

An updated URL has been provided. This change is necessary to ensure readers can locate and review the appropriate 2022-2023 income standards.

ARM 37.70.407

The department proposes amending this rule to delete the reference to 20 USC 9201 et seq. This federal law has been repealed.

ARM 37.70.408

The department proposes amending this rule to increase the minimum annual nonbusiness resources adjustment from three percent to five percent. This change is necessary because (5) provides that the dollar limits on non-business resources will be revised annually to adjust for inflation by multiplying the current dollar limits by either the percentage increase in the consumer price index (CPI) for the previous calendar year or three percent, whichever is less. The increase in the CPI for 2021 was seven percent; increasing the minimum limit to five percent will allow the program to adjust for inflation and more closely align with the 2021 CPI increase.

The department also proposes amending this rule by updating the LIHEAP Table of Non Business Resource Limits used to determine LIHEAP eligibility based on resources. This is necessary because (5) provides that the dollar limits on non-business resources will be revised annually to adjust for inflation. The increase in the CPI for 2021 was seven percent, so the dollar amounts in the LIHEAP Table of Nonbusiness Resource Limits for the 2022-2023 heating season will increase by five percent.

An updated URL has been provided in this rule. This change will ensure readers can locate and review the appropriate 2022-2023 resource standards.

Fiscal Impact

LIHEAP is 100% federally funded. Congress has not yet appropriated funds for the LIHEAP 2022-2023 heating season. However, based upon the information available at this time, the department estimates Montana will receive funding comparable to last heating season. Benefit levels for households using all types of heating fuel and for all dwelling types are expected to be comparable to the 2021-2022 heating season. It is estimated that 18,000 households will qualify for LIHEAP benefits this year, which is comparable to last year. As in past years, if LIHEAP funds for the 2022-2023 heating season are appropriated at a higher level, the additional funding will allow subsequent payments to be issued to each LIHEAP recipient. The department does not anticipate any significant fiscal impact.

5. The department intends to apply these proposed rule amendments retroactively to October 1, 2022. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., April 21, 2023.

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

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

9. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

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

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

/s/ HEIDI SANDERS

Heidi Sanders
Rule Reviewer

/s/ CHARLES T. BRERETON

Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State March 14, 2023.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.76.201, 37.76.202,) PROPOSED AMENDMENT AND
37.76.203, 37.76.204, and 37.76.205) REPEAL
and the repeal of ARM 37.76.206)
pertaining to the Food Distribution)
Program on Indian Reservations)

TO: All Concerned Persons

1. On April 13, 2023, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment and repeal of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89775289166?pwd=NXRnRXF0UUFLY3NWMk9MbHRwTXQwUT09>, meeting ID: 897 7528 9166, and password: 617484; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 897 7528 9166, and password: 617484. Find your local number: <https://mt-gov.zoom.us/u/kcIQQBIZJ4>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on March 30, 2023, to advise us of the nature of the accommodation that you need. Please contact the Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-3026; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

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

37.76.201 PLAN OF OPERATION (1) ~~The food distribution program~~ Food Distribution Program on Indian Reservations (FDPIR) will operate on the following Indian reservations at their option:

- (a) Blackfeet;
- (b) ~~Salish-Kootenai~~ Flathead;
- (c) Northern Cheyenne;
- (d) Crow;
- (e) Rocky Boy; ~~and~~
- (f) Fort Belknap; ~~and~~
- (g) Fort Peck.

~~(2) There is issuance of both food stamps and commodities to the above-named Indian reservations except the Fort Peck Indian reservation.~~

AUTH: 53-2-201, MCA;

IMP: ~~53-2-306~~ 50-49-102, 53-2-201, MCA

37.76.202 FOOD DISTRIBUTION HOUSEHOLD GENERAL ELIGIBILITY REQUIREMENTS (1) ~~Households applying for commodities are classified as follows: that meet program eligibility requirements may be certified to participate in FDPIR for up to 12 months. Households in which all adult members are elderly or disabled may be certified to participate in FDPIR for up to 24 months. Households cannot participate in FDPIR and the USDA Supplemental Nutrition Assistance Program (SNAP) in the same month.~~

~~(a) Assistance households shall be eligible to receive donated foods upon application for certification without further investigation except that it is necessary to determine the number in the household and that all members have been considered in granting such aid that consist solely of members who are eligible for and receiving Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI) shall be eligible to receive donated foods upon application for certification without further investigation other than to determine the number of household members and that all members have been considered in granting such aid.~~

~~(b) Non-assistance households are eligible for food assistance upon application, providing that the total income and resource of the household are less than the amount shown in the income and resource standards and provided they have cooking facilities and are in fact preparing their own meals means any household in which one or more members do not participate in a public assistance program. Eligibility of non-assistance households to participate in FDPIR is determined using 7 CFR § 253.6, 7 CFR § 253.7, as amended through November 25, 2022, and the Food and Nutrition Service (FNS) Handbook 501, updated June 2, 2022. Copies of 7 CFR § 253.6, 7 CFR § 253.7, and FNS Handbook 501 may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, 1400 Carter Drive, P.O. Box 202956, Helena, MT 59620-2956.~~

~~(2) The assistance grant will not be reduced because of receipt of commodities.~~

AUTH: 53-2-201, MCA

IMP: ~~53-2-306~~ 50-49-102, 53-2-201, MCA

37.76.203 CERTIFICATION AND REVIEW (1) ~~Public assistance households shall be reviewed at intervals that are coincident with redeterminations of eligibility to receive public assistance grants or benefits. Applicant household eligibility and certification is determined according to 7 CFR § 253.6, 7 CFR § 253.7, as amended through November 25, 2022, and the FNS Handbook 501, updated June 2, 2022. Copies of 7 CFR § 253.6, 7 CFR § 253.7, and the FNS Handbook 501 may be obtained from the Department of Public Health and Human Services,~~

Human and Community Services Division, 1400 Carter Drive, P.O. Box 202956, Helena, MT 59620-2956.

~~(a) Eligibility shall be redetermined whenever there is a change in the composition of the household.~~

~~(2) Non-public assistance households are to be reviewed at least every 3 months, except that the reviews may be made at longer periods, not to exceed 12 months, provided that such longer periods are based upon a determination by the certifying agency that the income and resources available to the households will probably remain essentially unchanged during the period.~~

~~(3)(2) Households not recertified at the end of the time period shall be terminated until reapplication and redetermination of eligibility is made.~~

~~(4) Indian referral cases shall be limited to a certification period not to exceed 3 months.~~

AUTH: 53-2-201, MCA

IMP: ~~53-2-306~~ 50-49-102, 53-2-201, MCA

37.76.204 FORMS USED FOR FOOD DISTRIBUTION (1) Forms are ~~may~~ be obtained obtainable at the local county ~~welfare~~ FDPIR offices and from the Department of Public Health and Human Services, Human and Community Services Division, 1400 Carter Drive, P.O. Box 202956, Helena, MT 59620-2956.

AUTH: 53-2-201, MCA

IMP: ~~53-2-306~~ 50-49-102, 53-2-201, MCA

37.76.205 INCOME LIMITATION ELIGIBILITY STANDARDS (1) ~~Income limitations~~ eligibility standards for participation in the ~~food distribution program~~ FDPIR are: determined according to FNS Handbook 501, Exhibit M for the contiguous United States. The department adopts and incorporates by reference FNS Handbook 501, Exhibit M FDPIR Net Monthly Income Standards based on household size revised May of 2022. Copies of the FNS Handbook 501, Exhibit M may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, 1400 Carter Drive, P.O. Box 202956, Helena, MT 59620-2956.

<u>Household Size</u>	<u>Monthly Net Income</u>
1	\$125
2	190
3	225
4	255
5	290
6	320
7	355
8	390
9	415
10	440

Each Additional

+30

~~(2) Net income is gross income less any mandatory payroll deductions.~~

~~(3) In determining eligibility of non-assistance households for the program, deductions from monthly income may be made for the following hardships if they materially affect the household's ability to purchase food:~~

~~(a) the average monthly cost of continuing unusual medical care given under the direction of a medical practitioner;~~

~~(b) the monthly cost of attendant and housekeeping services when such care is deemed essential to the well-being of the household;~~

~~(c) the monthly cost of child care expenditures for such care are necessary to permit gainful employment or when necessary for the well-being of the household;~~

~~(d) if the non-assistance household has a verified commitment of income to meet monthly housing costs which exceeds the county maximum housing allowance of the payment over the appropriate AFDC program, the excess of the payment over the appropriate AFDC allowances may be deducted in determining monthly income for eligibility; excess housing costs will be determined at any time there is a change of address; if the housing payment includes utilities, the appropriate county AFDC housing allowance before the housing hardship is calculated;~~

~~(e) if utilities are paid separate and the average monthly cost is in excess of that included in the AFDC cost schedule, the difference may be deducted in determining net income;~~

~~(f) unusual transportation costs necessary to seek and hold employment are deductible when the transportation costs exceed \$15.00 per month, the household is determined to have an unusual transportation expense which is considered a hardship for the purpose of the program. A deduction may be made for transportation costs which exceed \$15.00 per month. Transportation will be allowed at the rate of 8 cents a mile for a car and 3 cents a mile for other modes of transportation.~~

~~(i) If an employed person receives a transportation allowance to cover going to and from work, no deduction is allowed.~~

~~(ii) Car payments are not considered in calculating transportation hardship deductions.~~

~~(g) special temporary hardships may also be recognized such as those arising out of catastrophes, including fire, flood, and other natural disasters;~~

~~(h) court ordered payments for alimony and child support; and~~

~~(i) payments for health insurance made by members of the household solely for the benefit of members of such household.~~

AUTH: 53-2-201, MCA

IMP: 53-2-306 50-49-102, 53-2-201, MCA

4. The department proposes to repeal the following rule:

37.76.206 RESOURCE LIMITATION

AUTH: 53-2-201, MCA

IMP: 53-2-306, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.76.201, 37.76.202, 37.76.203, 37.76.204, and 37.76.205 and to repeal ARM 37.76.206.

ARM 37.76.201, 37.76.202, 37.76.203, 37.76.204, 37.76.205

Rule changes will allow the Food Distribution Program on Indian Reservations (FDPIR) rules to reflect Federal Fiscal Year 2023 regulations, policies, and practices. These proposed changes are in alignment with the Governor's red tape relief initiative.

The department proposes removing and replacing invalid implementing statute 53-2-306, which has been repealed. The implementing statutes 50-49-102 and 53-2-201, MCA would replace the repealed statute as the implementing statutes.

ARM 37.76.201

The department proposes changing the title of the program from the Food Distribution Program to the Food Distribution Program on Indian Reservations to reflect the correct name of the program.

This rule would be updated to reflect the current plan of operation to reference the most current policies and processes. This change is necessary to provide participants with notice of the current program guidelines.

ARM 37.76.202

The department proposes amending this rule to include eligibility certification for up to 12 months and up to 24 months if all adult members are elderly or disabled. USDA sets the certification rules in the FNS Handbook 501, Section 5110, and in 7 CFR § 253.7(b)(2). A household would be assigned a certification period for as long a period as the household's circumstances are expected to remain sufficiently stable such that the household is expected to continue to meet the program's eligibility standards. This reduces the administrative costs of re-certifying recipients.

ARM 37.76.203

The department proposes amending this rule by adding reference to the federal regulation used for certification and review.

ARM 37.76.204

The department proposes amending this rule to add that the FDPIR forms may be obtained from the local county FDPIR offices and from DPHHS. The reference to local county welfare offices would be removed.

ARM 37.76.205

The department proposes amending this rule to incorporate by reference the USDA poverty guidelines used to establish income standards for the FDPIR. Income standards outlined in Food and Nutrition Service (FNS) Handbook 501 Exhibit M would be used when determining eligibility for the FDPIR. The income eligibility standards are outdated and need to be updated to reflect current income eligibility standards.

ARM 37.76.206

The department proposes repealing this rule. The FDPIR no longer requires a resource limit for participation in the FDPIR.

Fiscal Impact

The Food Distribution Program on Indian Reservations (FDPIR) is 100% federally funded. Based upon the information available at this time, the department estimates Montana will receive funding comparable to last year. The department does not anticipate any significant fiscal impact from these proposed amendments to the current rules.

6. The department intends these rule amendments and rule repeal to be effective on the day after the date of publication of the adoption notice.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., April 21, 2023.

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

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

10. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

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

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

/s/ HEIDI SANDERS

Heidi Sanders
Rule Reviewer

/s/ CHARLES T. BRERETON

Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State March 14, 2023.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.85.105 pertaining to) PROPOSED AMENDMENT
updating Medicaid and non-Medicaid)
provider rates, fee schedules, and)
effective dates)

TO: All Concerned Persons

1. On April 14, 2023, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/83179173227?pwd=Q3FrVWtydzh6YWWRiMEdlc0hKNW92QT09>, meeting ID: 831 7917 3227, and password: 106528; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 831 7917 3227, and password: 106528. Find your local number: <https://mt-gov.zoom.us/j/83179173227?pwd=Q3FrVWtydzh6YWWRiMEdlc0hKNW92QT09>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on March 31, 2023, to advise us of the nature of the accommodation that you need. Please contact the Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-3026; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) through (3)(j) remain the same.

(k) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, effective ~~January 1, 2023~~ April 1, 2023, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs), as provided in ARM 37.86.1802, effective ~~January 1, 2023~~ April 1, 2023. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~January 1, 2023~~ April 1, 2023.

(l) through (6) remain the same.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.85.105, pertaining to updating the effective dates of Medicaid fee schedules.

The department administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low-income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

The proposed amendments are explained below, regarding the specific subsection of ARM 37.85.105.

(3)(k) Prosthetic Devices, Durable Medical Equipment, and Medical Supplies

The department proposes to update the fee schedule date for prosthetic devices, durable medical equipment, and medical supplies to April 1, 2023. This update is necessary to ensure the department can implement CMS quarterly updates for these services.

Fiscal Impact

This proposed rule amendment is expected to be budget neutral and will impact 516 Montana Healthcare Programs Durable Medical Equipment providers.

5. The department intends to apply this proposed rule amendment retroactively to April 1, 2023. A retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., April 21, 2023.

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

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

mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above.

9. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

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

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

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

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

/s/ BRENDA K. ELIAS

Brenda K. Elias
Rule Reviewer

/s/ CHARLES T. BRERETON

Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State March 14, 2023.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rules I through V; the amendment of	)	AMENDMENT, REPEAL, AND
ARM 10.55.601, 10.55.602,	)	TRANSFER
10.55.603, 10.55.604, 10.55.605,)	
10.55.606, 10.55.701, 10.55.702,)	
10.55.703, 10.55.704, 10.55.705,)	
10.55.706, 10.55.707, 10.55.708,)	
10.55.709, 10.55.710, 10.55.712,)	
10.55.714, 10.55.715, 10.55.716,)	
10.55.717, 10.55.718, 10.55.721,)	
10.55.801, 10.55.802, 10.55.803,)	
10.55.804, 10.55.901, 10.55.902,)	
10.55.904, 10.55.905, 10.55.906,)	
10.55.907, 10.55.908, 10.55.1001,)	
10.55.1003, 10.55.1101, 10.55.1301,)	
10.55.1701, 10.55.1801, 10.55.1901,)	
and 10.55.2101; the repeal of ARM)	
10.55.711 and 10.55.1302; and the)	
transfer of ARM 10.55.607 pertaining)	
to Standards of Accreditation)	

TO: All Concerned Persons

1. On October 7, 2022, the Board of Public Education (board) published MAR Notice No. 10-55-290 pertaining to the public hearing on the proposed adoption, amendment, repeal, and transfer of the above-stated rules at page 1966 of the 2022 Montana Administrative Register, Issue Number 19.

2. The board has repealed the following rules as proposed: ARM 10.55.711 and 10.55.1302.

3. The board has transferred ARM 10.55.607 to ARM 10.57.114 as proposed.

4. The board has adopted the following rules as proposed: NEW RULE I (ARM 10.55.608) and NEW RULE V (ARM 10.55.806).

5. The board has amended the following rules as proposed: ARM 10.55.604, 10.55.702, 10.55.707, 10.55.715, 10.55.716, 10.55.717, 10.55.718, 10.55.801, 10.55.804, 10.55.1101, 10.55.1301, 10.55.1701, 10.55.1801, 10.55.1901, and 10.55.2101.

6. The board has adopted the following rules as proposed but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE II (10.55.722) FAMILY AND COMMUNITY ENGAGEMENT

(1) remains as proposed.

(a) is aligned to the district integrated strategic action plan required in ARM 10.55.601;

(b) through (d)(iv) remain as proposed.

(v) families and school staff partner in decisions that affect children and families and together inform and influence policies, practices, and programs; and

(vi) families and school staff collaborate with members of the community to connect students, families, and staff to expand learning opportunities, community services, and civic participation; and

(vii) families and school staff collaborate with members of the community to connect students, families, and staff to post-secondary education opportunities, including workforce training, apprenticeship opportunities, career pathways, and degree programs, and encourage students to explore college and career planning tools (including Free Application for Federal Student Aid completion) and incentives provided by post-secondary institutions.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

NEW RULE III (10.55.723) MENTORSHIP AND INDUCTION (1) The local board of trustees shall implement a mentorship and induction program as outlined in the integrated strategic action plan described in ARM 10.55.601 that:

(a) through (2) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

NEW RULE IV (10.55.724) EVALUATION (1) The local board of trustees shall ensure the completion of periodic written evaluations of all regularly employed instructional personnel who are under written contract. Employees evaluated shall have access to a copy of the evaluation instrument, the opportunity to respond in writing to the completed evaluation, and access to the employee's files.

(2) The Superintendent of Public Instruction shall develop and publish model evaluation instruments that comply with this rule in collaboration with the Montana Federation of Public Employees, the Montana Rural Education Association, the Montana School Boards Association, the School Administrators of Montana, and the Montana Small School Alliance. A school district adopting and using one of the model instruments shall be construed to have complied with this rule, though use of one of the models shall not be required provided that the district's evaluation instrument and process substantially conform to the requirements set forth in this rule.

~~(2)~~(3) The local board of trustees shall implement an evaluation component as outlined in the integrated strategic action plan described in ARM 10.55.601.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

7. The board has amended the following rules as proposed but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

10.55.601 ACCREDITATION STANDARDS: PROCEDURES (1) and (2) remain as proposed.

(3) To ensure a learner-centered system and establish a plan for continuous education improvement, the school district ~~schools~~ shall develop, implement, monitor, and evaluate an integrated strategic action plan and make the plan publicly available. To align with local context and needs, the district integrated strategic action plan shall be ~~developed~~ updated at least every three years based on a comprehensive needs assessment with meaningful stakeholder input and feedback that comply, at a minimum, with applicable requirements in Title 2, chapter 3, part 1, MCA. ~~The integrated action plan must be evaluated, and progress reviewed annually.~~ The plan must clarify what specific steps must be taken to achieve the district graduate profile and reflect a continuous improvement process.

(4) Each plan shall include:

(a) a school district graduate profile of ~~a graduate~~ as defined in ARM 10.55.602(22);

(b) the school district's educational goals pursuant to the requirements of ARM 10.55.701 ~~and each of its school's identified area(s) of need based on an analysis of school level comprehensive needs assessment;~~

(c) a description of planned progress toward implementing all content and program area standards, in accordance with the schedule in ARM 10.55.603 ~~the school district's and each of school's desired outcomes that align with the district graduate profile;~~

(d) a description of strategies for assessing student progress toward meeting all content standards, pursuant to the requirements of ARM 10.55.603 and 10.56.101 ~~the educational goals for the school district and each school within the district;~~

(e) a professional development component, in accordance with ARM 10.55.714 ~~a description of the district and each school's evidence-based strategies, action steps, measures, success criteria, and evidence that are aligned with the graduate profile and will be implemented, monitored, and evaluated;~~

(f) a description of how the district ~~and each of its schools~~ will meet programmatic requirements of state and federal grants; and

~~(g) a description of planned progress toward implementing all content and program area standards, in accordance with the schedule in ARM 10.55.603;~~

~~(h) a description of strategies for assessing student growth and proficiency of all content standards and content-specific learning progressions, pursuant to the requirements of ARM 10.55.603 and ARM 10.56.101;~~

~~(i) professional development, mentoring, induction, and evaluation components, in accordance with ARM 10.55.714, [New Rule III], and [New Rule IV];~~

~~(j) a description of strategies for family and community engagement, in accordance with [New Rule II];~~

~~(k) a description of strategies to maintain and enhance a positive school climate, in accordance with ARM 10.55.801;~~

~~(l) a description of a learning model(s) aligned to the graduate profile; and~~

~~(m)(g) a description of strategies for addressing the needs of gifted and talented students in accordance with ARM 10.55.804, special education children with disabilities in accordance with ARM 10.55.805, English learners learner students in accordance with ARM 10.55.806, and other populations with individual needs at-risk students as defined in 20-1-101, MCA.~~

(5) The local board of trustees shall report and submit their adopted integrated strategic action plan to the Superintendent of Public Instruction.

(6) The Superintendent of Public Instruction shall develop and implement procedures necessary to monitor and evaluate the effectiveness of the implementation of the integrated strategic action plan of each school district ~~and its schools.~~

(7) To ensure learner-centered systems and continuous educational improvement, the Superintendent of Public Instruction shall provide guidance, resources, and evaluation to assist in the implementation of the district integrated strategic action ~~plans~~ plan to improve learning outcomes for all students.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.602 DEFINITIONS For the purposes of this chapter, the following terms apply:

(1) through (4) remain as proposed.

(5) "Charter school" means a publicly funded school that may be exempt from an assurance standard or a section of assurance standards as defined in ARM 10.55.602(3). A charter school operates under the supervision and control of an existing locally elected board of trustees in an existing public school district.

(6) remains as proposed.

~~(7) "Class 8 license" means an educator license as defined in ARM 10.57.102.~~

~~(8) "Combined elementary-high school district" means an elementary district and a high school district, which are combined into a single school system for district administration purposes.~~

(9) and (10) remain as proposed but have been renumbered (7) and (8).

~~(11) "Concurrent enrollment" means the district offers these courses during the school day and they are taught by district high school faculty who have been approved by the post-secondary institution to teach these college level courses. Students receive both high school and college credit for the completed course.~~

(12) through (16) remain as proposed but have been renumbered (9) through (13).

~~(17) "Dual credit" means students receive both college credit and high school credit for courses taken from a postsecondary institution. Students may or may not be taking these courses during the school day. The college faculty member must have an appropriate license and endorsement in the subject taught or a Class 8 license.~~

~~(18) "Dual enrollment" means opportunities for students to be enrolled in high~~

school and postsecondary courses at the same time.

(19) through (23) remain as proposed but are renumbered (14) through (18).

(24) ~~"Independent elementary school district" means a district organized for the purpose of providing public education for all or any combination of grades kindergarten through 8.~~

(25) ~~"Indian Education for All" means the constitutionally declared policy of this state to recognize the distinct and unique cultural heritages of American Indians and to be committed in its educational goals to the preservation of their cultural heritages. Implementation of these requirements ensures:~~

~~(a) every Montanan, Indian or non-Indian, is encouraged to learn about the distinct heritages and contributions of Montana tribal groups and governments in a culturally responsive manner; and~~

~~(b) every educational agency must work cooperatively with Montana tribes to provide means by which school personnel will gain an understanding of and appreciation for American Indian people.~~

(26) remains the same but is renumbered (19).

(27)(20) "Integrated strategic action plan" means a district plan adopted by the board of trustees that:

(a) is aligned with the peoples' goal in Article X, section 1 of the Montana Constitution of developing the full educational potential of each person;

(b) ensures a learner-centered system and continuous improvement that reflects local context and needs;

(c) is based on school level comprehensive needs assessment;

(d) incorporates has engaged stakeholders and addresses stakeholder input and feedback; and

(e) aligns plans across required with requirements of applicable state and federal programs.

(28) and (29) remain as proposed but are renumbered (21) and (22).

~~(30) "K-12 district" as defined in 20-6-701, MCA, means an elementary district, with the same district boundaries as a high school district, which has been attached to that high school district. The high school district remains an organized district and the elementary district is an inactive district pursuant to 20-6-101, MCA.~~

(31)(23) "Learning model" means the learning experiences student students engage in and teachers facilitate that are aligned to the desired attributes of a graduate profile.

(32)(24) "Learning progression" means the specific performance expectations in each content area and grade-level or grade-band from kindergarten through grade 12.

(33) through (36) remain as proposed but are renumbered (25) through (28).

~~(37) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be conducted during the school fiscal year in accordance with 20-1-301, MCA and includes passing time between classes. Minimum aggregate hours do not include lunch time and periods of unstructured recess, as defined in 20-1-101, MCA.~~

(38)(29) "Minimum requirement" as used in ARM 10.55.606 means groups of 10 or more students for reporting valid and reliable results as it pertains to student performance.

~~(39) "Misassignment" means a licensed educator/specialist teaching outside their endorsed teaching area(s) or level (elementary K-8 and secondary 5-12).~~

(40) remains as proposed but is renumbered (30).

~~(41) "Offsite instructional setting" means an instructional setting at a location, separate from a main school site, where a school district provides for the delivery of instruction to a student who is enrolled in the district.~~

~~(42) "Online learning" means educational activity in which instruction and content are delivered primarily via the Internet and through emerging technologies. Online learning is a form of distance learning.~~

~~(43)~~(31) "Personalized learning" means to:

(a) develop individualized pathways for career and postsecondary educational opportunities that honor individual interests, passions, strengths, needs, and culture;

(b) support the student through the development of relationships among teachers, family, peers, the business community, postsecondary education officials, public entities, and other community stakeholders;

(c) embed community-based, experiential, online, and work-based learning opportunities; and

(d) foster a learning environment that incorporates both face-to-face and virtual connections.

~~(44) "Postsecondary and workforce readiness" means the knowledge, skills, and dispositions that a student should attain prior to completing a high school program.~~

(45) through (49) remain as proposed but are renumbered (32) through (36).

~~(50)~~(37) "Program delivery standards" means the conditions and practices school districts are required to provide ensuring that every student is afforded equal educational opportunities to learn, develop, and demonstrate achievement in content standards and content-specific grade-level or grade-band learning progressions.

~~(51)~~(38) "Pupil instruction" ~~means the conduct of organized instruction of learning opportunities for pupils enrolled in public schools while under the supervision of a teacher. is as defined in 20-1-101, MCA.~~

~~(52)~~(39) "Pupil instruction day" means a school day ~~when organized instruction is conducted with students under the supervision of a teacher~~ of pupil instruction.

(53) remains as proposed but is renumbered (40).

~~(54)~~(41) "School" means, for accreditation purposes, an educational program and grade assignments designated by the local board of trustees in one of the following categories:

(a) an elementary school, which offers any combination of kindergarten through eighth grade;

(b) a seventh and eighth grade school, which comprises the basic education program for grades 7 and 8 that may be funded at the high school rate pursuant to ~~20-9-396~~ 20-9-306, MCA;

(c) a junior high school, which offers the basic education program for grades 7 through 9;

(d) a middle school, which offers education programs for grades 4 through 8 or any combination thereof; and

(e) a high school, which offers the educational programs for grades 9 through 12 or grades 10 through 12 when operating in conjunction with a junior high school.

(55) and (56) remain as proposed but are renumbered (42) and (43).

~~(57)~~(44) "School system" means the administrative unit of a district or combination of districts. In Montana, types of school systems are as follows:

(a) "combined elementary-high school district" means an elementary district and a high school district which are combined into a single school system for district administration purposes through a K-12 district, unified school system, or joint board;

(b) "independent high school district" means a district organized for the purpose of providing public education for all or any combination of grades 9 through 12 that is operated independent of an elementary district; and

(c) "independent elementary school district" means a district organized for the purpose of providing public education for all or any combination of grades kindergarten through grade 8 that is operated independent of a high school district.

~~(58) "Stakeholder engagement" means a measurable, inclusive, intentional, and ongoing process of communicating to, learning from, and partnering with stakeholders to best support continuous school improvement and learning outcomes for all students.~~

(59) through (61) remain as proposed but are renumbered (45) through (47).

~~(62)~~(48) "Student performance standards" means the measurement of student performance and proficiency on annual state level summative assessments and graduation rates used to determine the accreditation status of a school.

(63) through (67) remain as proposed but are renumbered (49) through (53).

~~(68) "Work-based learning" means sustained interactions with industry or community professionals in workplace settings, to the extent practicable, or simulated environments at an educational institution that foster in-depth, firsthand engagement with the tasks of a given career field, that are aligned to curriculum and instruction.~~

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.603 CURRICULUM AND ASSESSMENT (1) and (2) remain as proposed.

(3) School districts shall assess all students' progression, growth, and proficiency of content standards and content-specific grade-level or grade-band learning progressions in each program area as aligned with the district assessment plan in (5). The district shall use multiple measures, including state-level achievement information obtained by administration of assessments pursuant to ARM 10.56.101 to examine the learning program and measure its effectiveness.

(a) through (4)(a) remain as proposed.

(b) review curricula at least every five years or consistent with the state's standards revision schedule, and modify, as needed, to meet the goals of the integrated strategic action plan pursuant to ARM 10.55.601;

(c) review materials and resources necessary for implementation of the curriculum and assessment at least every five years, or consistent with the state's standards revision schedule, that are consistent with the goals of the integrated

strategic action plan pursuant to ARM 10.55.601; and

(d) and (5) remain as proposed.

(a) The assessment plan shall be included in the integrated strategic action plan pursuant to ARM 10.55.601 and be in place within two years following the development of local curriculum.

(b) School districts shall use appropriate multiple measures and methods, including state-level achievement information obtained by administration of assessments pursuant to the requirements of ARM 10.56.101, to assess student growth and proficiency of content standards and content-specific grade-level or grade-band learning progressions in all program areas.

(c) The Superintendent of Public Instruction shall develop criteria and procedures for the selection of appropriate multiple measures and methods to be used to assess student growth and proficiency of content standards and appropriate content-specific grade-level or grade-band learning progressions in all program areas.

(d) remains as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.605 CATEGORIES OF ACCREDITATION ~~(1) Accredited with distinction means the school has met the assurance standards, exceeded student performance standards as defined in ARM 10.55.606, and met the licensure endorsement requirements related to teaching assignments. A copy of the Accreditation Status Criteria Reference Guide must be made publicly available by the Superintendent of Public Instruction. Three consecutive years in the accredited with distinction status allows the local board of trustees to waive assurance standards for the school for three years.~~

~~(1)(2) Regular accreditation~~ Accredited means the school has met the assurance standards ~~with minor and/or few deviations from the standards, and met or exceeded the student performance standards as defined and delineated in~~ ARM 10.55.606, and ~~met the Licensure Endorsement Requirements Related to Teaching Assignments.~~ A copy of the Accreditation Status Criteria Reference Guide must be made publicly available by the Superintendent of Public Instruction.

(2) Regular with minor deviation accreditation means the school does not meet all the requirements of regular accreditation outlined in (1), as defined in the Accreditation Status Criteria Reference Guide, which must be made publicly available by the Superintendent of Public Instruction.

(3) A school with regular accreditation with a deviation in student performance standards, as defined in ARM 10.55.606, or regular with minor deviations accreditation, as defined in ARM 10.55.606, shall remedy the deviations within three years or will be reassigned to a lower category of accreditation.

~~(4)(3) Advice accreditation~~ Accredited on probation status means the school exhibits serious and/or numerous deviations from the assurance standards ~~and/or does not meet the student performance standards as defined and delineated in~~ ARM 10.55.606, and ~~the Licensure Endorsement Requirements Related to Teaching Assignments.~~ A copy of the Accreditation Status Criteria Reference Guide must be

made publicly available by the Superintendent of Public Instruction. ~~For a district with a school accredited on probation status, the district administrator and the chair of the local board of trustees shall submit to the Superintendent of Public Instruction a corrective plan, including a systematic procedure and timeline for resolving the deviations noted. Schools identified as accredited on probation will be required to participate in an annual review of progress from the Office of Public Instruction. If a school has three consecutive years on probation, the school shall be placed into the intensive assistance process.~~

(5) Deficiency accreditation means the school is in advice status for two years, has not complied with the required corrective plan, and continues to have serious and/or numerous deviations, or has substantially increased the seriousness of deviations over the previous year.

(6) For a district with a school in advice or in deficiency status, the district administrator and the chair of the local board of trustees shall submit to the Superintendent of Public Instruction a corrective plan, including a systematic procedure and timeline for resolving the deviations noted.

(7) A school shall be immediately placed in deficiency status if:

(a) the school employs a teacher who does not have a Montana teaching license; or

(b) the school has a facility that creates an unhealthy environment with safety and health hazards.

(8) A school in deficiency status failing to comply with the required corrective plan shall be placed into the intensive assistance process as defined in the Accreditation Status Criteria Reference Guide, which must be made publicly available by the Superintendent of Public Instruction.

(9) Nonaccredited status means that a school in deficiency status fails to meet the requirements of intensive assistance and is out of compliance with the Board of Public Education standards of accreditation.

(10)(4) A school seeking initial accreditation or reinstatement of accreditation shall meet the requirements of regular accreditation outlined in (1)(2). This process shall include an on-site review from the Office of Public Instruction.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.606 ACCREDITATION PROCESS (1) through (5) remain as proposed.

~~(6) A school shall be designated accredited with distinction by using the combined results of accredited status for assurance standards and distinguished status for student performance results, where 80% of students are proficient or advanced and/or obtain an 80% or higher graduation rate.~~

(6) A school shall be designated regular accreditation status by using the combined results of the assurance standards and student performance standards as follows:

(a) Regular status for assurance standards and regular status for student performance standards;

(b) Regular status for assurance standards and regular with minor deviation for student performance standards; or

(c) Regular with minor deviation for assurance standards and regular status for student performance standards.

(7) A school shall be designated regular with minor deviation ~~accredited~~ status by using the combined results of both assurance standards and student performance standards in regular with minor deviation status ~~accredited status~~, or as stated in ARM 10.55.605.

(8) A school shall be designated in advice ~~accredited on probation~~ status by using the combined results of the assurance standards and student performance standards in ~~accredited with probation~~ for either set of standards, or as stated in ARM 10.55.605.

(9) A school shall be designated deficiency status by using the combined results of assurance standards and student performance standards in deficiency in either set of standards, or as stated in ARM 10.55.605.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.701 BOARD OF TRUSTEES (1) and (2) remain as proposed.

(a) an integrated strategic action plan that includes a graduate profile as outlined in ARM 10.55.601;

(b) sequential K-12 curriculum for each program area that aligns to the content standards, content specific grade-level or grade-band learning progressions, and program area standards;

(c) policies establishing student assessment procedures that ensure evaluation of the district's curriculum and student learning. These procedures shall specify how and when data are to be collected, analyzed, and reported; and

(d) policies providing descriptions of the roles and responsibilities of the local board of trustees, superintendent, and personnel employed by the school district;

(e) a policy addressing grievances for students, families, staff, and stakeholders; and

(f) any other policies required by state or federal law.

(3) and (3)(a) remain as proposed.

(b) engage in a continuous school improvement process that is aligned with the school district's integrated strategic action plan.

(4) The local board of trustees shall develop, with stakeholder input, ~~a district mission and vision~~ an integrated strategic action plan to which ~~that aligns to the district graduate profile~~ is aligned.

(5) The local board of trustees with meaningful stakeholder involvement shall establish and implement such additional policies as the board deems necessary that:

(a) provide for the safety and well-being of all students and staff;

(b) through (d) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.703 LICENSURE AND DUTIES OF SCHOOL PRINCIPAL (1) and (2) remain as proposed.

(3) The principal shall carry out the district's policies and procedures, provide instructional leadership that allows for personalized and proficiency-based learning models, engage in strategic planning and school improvement, intentionally engage families and community members, ensure a positive school climate, and be responsible for the effective day-to-day operation of the school, including the management of finances, materials, and human resources to maximize student learning outcomes.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.704 ADMINISTRATIVE PERSONNEL: ASSIGNMENT OF DISTRICT SUPERINTENDENTS (1) The assignment of licensed superintendents for all configurations of school systems shall be determined by the local board of trustees, who recognize that in order to have a quality school system, leadership and leadership stability matter. The employment, assignment, functions, and duties of superintendents must comply with 20-3-207, 20-4-401, 20-4-402, MCA, based upon full-time equivalency (FTE) and shall be assigned as follows: The local board of trustees shall hire a district superintendent when:

(a) It operates a County High School, except the trustees may employ a Class 3 holder with a district superintendent endorsement as the county high school principal in lieu of a superintendent.

(b) The trustees of any high school district that operates under a separate board of trustees due to alternate methods of electing members of the high school board of trustees and the trustees of the elementary district where its high school building is located shall jointly employ and appoint a district superintendent.

(c) A joint board of trustees has been formed by a county high school and the elementary district where the county high school is located, the joint board shall jointly employ and appoint a district superintendent.

(d) The trustees of any other district may employ and appoint a district superintendent or when practicable seek the services of the county school superintendent as outlined in 20-3-207, MCA, to assist with the supervision or other support requirements identified by the county superintendent (e.g., employ a principal, subcontract with a licensed superintendent).

(2) When a district superintendent is employed, the trustees shall enter into a minimum of a one-year negotiated contract with the superintendent but can negotiate up to three years. Renewal of contracts must comply with 20-4-401, MCA.

(3) Based on the enrollment of a school system and the scope, functions, and duties of the superintendent, the district superintendent is encouraged to recommend to the local board of trustees the assignment of additional staff (e.g., assistant superintendents, coordinators, directors, supervisors) to assist with the operation of the school district to provide a quality education that results in actualized learning outcomes and the safety and wellness of students.

(a) School systems with 14 or fewer FTE licensed staff and without a licensed superintendent employed may use a supervising teacher and the services of the office of the county superintendent to satisfy administrator requirements;

(b) School systems with more than 14 and fewer than 18 FTE licensed staff shall employ a part-time, at a minimum of .10 FTE, licensed superintendent. One individual may serve as both superintendent and principal as defined in ARM 10.55.705(2)(a) or (2)(b);

(c) School systems with more than 18 and fewer than 31 FTE licensed staff shall employ a half-time (.50 FTE) licensed superintendent. One administrator may serve as both superintendent and principal as defined in ARM 10.55.705(2)(a) or (2)(b);

(d) School systems with 31 or more FTE licensed staff shall employ a full-time (1.0 FTE) licensed superintendent who shall devote full time to administration and supervision not to exceed a total assignment of 1.0 FTE; and

(e) No individual superintendent assigned pursuant to the ratios in (1) may be assigned as more than 1.0 FTE.

(4)(2) School systems with 100 or more full-time equivalency (FTE) FTE licensed staff shall employ a full-time curriculum coordinator to supervise the educational program and alignment of standards, assessment, curriculum, instruction, and instructional materials. The curriculum coordinator shall hold a Class 3 administrative license. Those districts with fewer than 100 FTE licensed staff and no full-time curriculum coordinator shall employ the services of a consortium, multidistrict collaborative, or interlocal cooperative, or a part-time, designated curriculum coordinator.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.705 ADMINISTRATIVE PERSONNEL: ASSIGNMENT OF SCHOOL ADMINISTRATORS/PRINCIPALS (1) School systems with nine or fewer full-time equivalency (FTE) licensed staff and without a licensed superintendent may use a supervising teacher and the services of the office of the county superintendent to satisfy principal requirements. The assignment of licensed school administrators/principals for all configurations of school systems shall be recommended by the district superintendent or county superintendent to the local board of trustees based on the scope, functions, and duties of the administrator/principal outlined in ARM 10.55.703, who recognize that in order to have a quality school system, leadership and leadership stability matter. Further, it is recognized that principals and assistant principals are the school leaders whose impact is second only to the classroom teacher in quality student learning outcomes and the safety and well-being of students.

(a) The local board of trustees may employ a principal/superintendent combination to lead their school districts.

(b) The local board of trustees shall ensure that administrator/principal duties shall be met through the employment of a superintendent/principal or, where practicable, seek the needed services of the county superintendent in a school district with fewer than 125 students.

~~(c) A school district must assign a licensed school administrator/principal full or partial FTE based on scope, function, and responsibilities for a school district with an enrollment of 125 students or more.~~

(2) The assignment of licensed principals shall be based upon student enrollment and prorated as applicable. Principal assignments are as follows:

(a) 0.25 FTE licensed principal shall be assigned to schools with enrollments of 125 to fewer than 175 students;

(b) 0.50 FTE licensed principal shall be assigned to schools with enrollments of 175 to fewer than 250 students;

(c) 1.0 FTE licensed principal shall be assigned to schools with enrollments of 250 to fewer than 550 students;

(d) 2 FTE licensed principals shall be assigned to schools with enrollments of 550 to fewer than 1050 students;

(e) 3 FTE licensed principals shall be assigned to schools with enrollments of 1050 to fewer than 1550 students;

(f) 4 FTE licensed principals shall be assigned to schools with enrollments of 1550 to fewer than 2050 students;

(g) 5 FTE licensed principals shall be assigned to schools with enrollments of 2050 or more students. Dependent on the student enrollment of the school and the scope, function, and responsibility of a principal/administrator, local boards of trustees are encouraged to set staffing levels of principals/administrators that will provide a quality education that results in learning outcomes and supports the safety and well-being of students.

~~(a) The local board of trustees may employ and assign a principal/superintendent combination to lead their school districts.~~

~~(b) The local board of trustees may assign a supervising teacher and/or county superintendent to fill the duties of the principal in schools.~~

~~(c) The local board of trustees may assign a licensed school administrator/principal at a partial or full-time equivalency.~~

(3) No individual principal assigned pursuant to the ratios in (2) may be assigned as more than 1.0 FTE. Additional administrator/principal FTE may be recommended by the district or county superintendent to the local board of trustees for consideration at any time during the school year.

(4) In a school that requires two or more FTE administrators/principals, at least one individual shall be appropriately endorsed as principal. At least a second administrator shall have an administrative endorsement(s) at the appropriate level(s) and in the area(s) that accurately reflects the administrator's supervisory responsibilities. For example, a school may assign properly licensed and endorsed curriculum coordinators to supervise the appropriate instructional programs. No individual administrator assigned pursuant to the ratios in ARM 10.55.705(2) may be assigned as more than 1.0 FTE.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA
IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

10.55.706 TEACHER INVOLVEMENT (1) Teachers ~~should~~ shall use their professional judgment and measures of student growth and proficiency to provide

engaging and highly effective pupil instruction to all students based on individual need.

(2) remains as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.708 TEACHING ASSIGNMENTS (1) remains as proposed.

(2) Teachers assigned in grade 5 or 6 in the departmentalized classroom or middle school, who hold a 5-12 secondary license, must be endorsed in the subjects they are teaching. A 5-12 license will not cover a grade 5 or 6 assignment in a self-contained K-8 classroom.

(3) Clarifications of teaching assignments in grades 5 through 12 departmentalized settings are published in the Licensure Endorsement Requirements Related to Teaching Assignments, which must be made publicly available by the Superintendent of Public Instruction.

(4) Licensure at the elementary level entitles the holder to teach in grades K through 8.

(5) No teacher shall have more than 28 hours of assigned student responsibility per week except for one-, two-, and three-teacher schools.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.709 LIBRARY MEDIA SERVICES, K-12 (1) ~~Each school must have a library media and literacy information program aligned to the content standards in ARM 10.53.1201 and the program standards in ARM 10.55.1801 that results in student learning outcomes for media and information literacy. The school library shall be housed in a central location, and each shall have a licensed and endorsed library media specialist at the following ratio:~~

(a) .5 FTE for schools with 126-250 students;

(b) 1 FTE for schools with 251-500 students;

(c) 1.5 FTE for schools with 501-1000 students;

(d) 2 FTE for schools with 1001-1500 students;

(e) 2.5 FTE for schools with 1501-2000 students;

(f) 3 FTE for schools with 2001 or more students.

(2) Schools of fewer than 126 students shall employ or contract with a licensed and endorsed school library media specialist. Based on the needs of the district, in concert with national and state program standards, the superintendent must recommend to the local board of trustees the assignment of library media staff to provide library media and information literacy services that result in the knowledge, skills, and dispositions students need by:

(a) employing licensed and endorsed library media specialist(s); or

(b) contracting with a licensed and endorsed school library media specialist;

or

(c) utilizing a consortium, multidistrict agreement, interlocal cooperative; or

(d) utilizing any other cooperative method that is authorized to secure these

services.

(3) If a district has fewer than 126 students, the district may utilize a consortium, multidistrict agreement, or interlocal cooperative to secure these services.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.710 ASSIGNMENT OF SCHOOL COUNSELING STAFF (1) A minimum equivalent of one full-time counselor for each 400 elementary (K-8) students shall be provided. The counselor/student ratio shall be prorated. Each school must have a school counseling program for K-12 students aligned to delivery standards in ARM 10.55.1901 and national counselor and student standards. The school system will assess the need for student supports that result in the knowledge, skills, and dispositions students need to:

(a) address mental health, safety, and well-being;
(b) achieve academic success and college and career readiness; and
(c) develop the mindsets and behaviors as identified in the national school counseling standards.

(2) A minimum equivalent of one full-time counselor for each 400 high school students (including grades 7 and 8 if high school funding is received) shall be provided. The counselor/student ratio shall be prorated. Based on the needs of the district in concert with national and state standards, the superintendent must recommend to the local board of trustees the assignment of counseling staff based on the capacity of individual counselors to provide school counseling programming and services by:

(a) employing licensed school counselor(s) or Class 6 specialist(s); or
(b) contracting licensed school counselor(s) or Class 6 specialist(s); or
(c) utilizing a consortium, multidistrict agreement, or interlocal cooperative to secure these services; or
(d) utilizing any other cooperative method that is authorized to secure these services.

(3) Districts with fewer than 126 students may employ or contract with a licensed, endorsed school counselor or Class 6 specialist or utilize a consortium, multidistrict agreement, or interlocal cooperative to secure these services. Based on the student need and school population(s), the district superintendent must recommend to the local board of trustees the assignment of additional degreed, licensed, or credentialed staff (e.g., school counselors, school psychologists, career advisors, licensed clinical social workers, licensed professional counselors, behaviorists, other mental health professionals, and/or other resources) that supports the staffing levels based on evidence-based research and national counseling standards.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.712 CLASS SIZE: ELEMENTARY (1) through (4) remain as

proposed.

(5) The school district must ~~provide additional~~ assign qualified human resources that comply with all fingerprint and background check requirements when exceeding maximum class sizes at a rate. ~~Instructional aides are mandatory when class size or teacher load exceed the standards. An instructional aide shall be assigned a minimum of 1 1/2 hours per day, per student overload. up to six hours.~~

(6) remains as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.714 PROFESSIONAL DEVELOPMENT (1) Professional development:

(a) shall be aligned with the district graduate profile and educational goals outlined in the district integrated strategic action plan described in ARM 10.55.601;

(b) shall be provided to address safety, well-being, and mental health of students and staff;

(c) through (2) remain as proposed.

(3) The local board of trustees shall establish an advisory committee to evaluate the school district's current school year professional development plan; and develop and recommend a plan for the subsequent school year, which is a required component of the integrated strategic action plan outlined in ARM 10.55.601.

(a) remains as proposed.

(b) Each school year the local board of trustees shall adopt a professional development plan embedded in the district integrated strategic action plan for the subsequent school year based on the recommendation of the advisory committee.

(c) through (h) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.721 HAZARD AND EMERGENCY PLANS (1) A local board of trustees shall adopt a policy addressing a school safety plan or emergency operations plan. The plan required by this rule shall be periodically reviewed with stakeholder input and updated as determined necessary by the trustees based on changing circumstances pertaining to school safety. Nothing in this rule shall be construed to require disclosure of elements of a school safety plan protected from public disclosure under the safety and security exceptions set forth in 2-6-1003, MCA.

(2) remains as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.802 OPPORTUNITY AND EDUCATIONAL EQUITY (1) It is the purpose of the accreditation standards to guarantee equality of educational opportunity and to respect the dignity of every person in accordance with Article II, Section IV of the Montana Constitution and federal law, with without prejudice ~~toward none of any kind~~. This includes, but is not limited to, programs, facilities,

educational materials, curriculum, counseling, library services, and extracurricular activities.

AUTH: Mont. Const. Art. II, sec. 4, Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

IMP: Mont. Const. Art. II, sec. 4, Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, MCA

10.55.803 LEARNER ACCESS (1) and (1)(a) remain as proposed.

(i) ~~students are engaged~~ engages students in authentic learning experiences that tie to their interests;

(ii) ~~students are all included~~ includes students in activities and given equal opportunity;

(iii) through (g) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.901 BASIC EDUCATION PROGRAM: ELEMENTARY (1) An elementary school shall have an education program aligned to the program area standards that enables students to meet the content standards and content-specific grade-level or grade-band learning progressions and recognizes the distinct and unique cultural heritages of American Indians.

(2) remains as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.902 BASIC EDUCATION PROGRAM: ~~MIDDLE GRADES JUNIOR HIGH SCHOOL, 7th AND 8th GRADE PROGRAM, OR MIDDLE SCHOOL~~ (1) ~~A school with middle grades~~ A school district's junior high school, 7th and 8th grade program, or middle school that complies with the requirements of this rule shall be accredited by the Board of Public Education in such capacity, according to the school district's compliance through a junior high school, 7th and 8th grade program, or middle school. To earn accreditation for its junior high school, 7th and 8th grade program, or middle school, the school district must have an education program aligned to the program area standards that enables all students to meet the content standards and content-specific grade-level or grade-band learning progressions and recognizes the distinct and unique cultural heritages of American Indians.

(2) ~~Instruction in reading literacy and writing literacy shall be incorporated into all required and elective program areas as required in the Montana Content Standards.~~ The Board of Public Education, upon recommendation of the Superintendent of Public Instruction, may approve a 7th and 8th grade program that must follow either the middle school philosophy and components described in (3) or the departmentalized philosophy and components described in (4).

(3) The Board of Public Education, upon recommendation of the Superintendent of Public Instruction, may approve a middle school program that:

(a) addresses the unique nature of middle-grade children by focusing on their intellectual, social, emotional, and physical development. To put such philosophy into practice, a middle school must have flexibility to:

(i) approach instruction, scheduling, and teaching in a variety of ways;
(ii) undertake interdisciplinary work; and
(iii) plan blocks of coursework deriving from the intellectual, social, emotional, and physical needs of middle school students;

(b) incorporates critical and creative thinking, career awareness, lifelong learning, and safety;

(c) incorporates instruction in reading literacy and writing literacy into all required and elective program areas as required in the Montana Content Standards;

(3)(d) includes, at A ~~at~~ a minimum, the following program areas as aligned with ARM 10.55.603 and 10.55.1001 are required of all students yearly:

(i)(a) English language arts;
(ii)(b) mathematics;
(iii)(c) physical and life sciences;
(iv)(d) social studies; and
(v)(e) health and physical education; and
~~(f) elective/exploratory offerings at the discretion of the local board of trustees to provide a minimum of three of the following:~~

~~(i) arts (visual arts, media arts, theater arts, music, and dance);~~
~~(ii) career and technical education;~~
~~(iii) computer science;~~
~~(iv) world languages; and~~
~~(v) exploratory courses, for example: mathematics exploration, science exploration, business, creative writing, financial education, photography, and leadership.~~

(e) at a minimum maintains the following required program areas:

(i) visual arts including, but not limited to art history, art criticism, aesthetic perception, and production;

(ii) music including, but not limited to general, instrumental, and vocal (emphasizing comprehensive music elements, music history, criticism, aesthetic perception, and musical production);

(iii) career and technical education courses or pathways such as agriculture, business education, family and consumer sciences, health occupations and industrial technology education; and

(iv) world languages;

(f) offers as electives to all students exploratory courses such as creative writing, dance, drama, financial education, photography, and leadership.

(4) A junior high school must offer an educational program, aligned to the program area standards, that enables all students to meet the content standards and content-specific grade-level or grade-band progressions.

(a) Instruction in reading literacy and writing literacy shall be incorporated into all required and elective program areas as required in the Montana Content Standards, ARM Title 10, chapter 53.

(b) All students shall complete the following program areas each year:

(i) 1 unit of English language arts;

(ii) 1 unit of social studies;

(iii) 1 unit of mathematics;

(iv) 1 unit of science; and

(v) 1/2 unit of health and physical education.

(c) All students must be allowed to elect from the following program area offerings:

(i) 1/2 unit of visual arts;

(ii) 1/2 unit of music;

(iii) 1/2 unit of career and technical education; and

(iv) 1/2 unit of world languages and cultures.

(d) A unit is defined as the equivalent of at least 8100 minutes for one school year.

(e) Time to pass between classes may be counted toward the standard school day but shall not be counted toward class time.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.904 BASIC EDUCATION PROGRAM OFFERINGS: HIGH SCHOOL

(1) The basic education program, aligned to the program area standards, for grades 9 through 12 shall be at least 20 units of coursework that enable all students to meet the content standards and content-specific grade-level or grade-band learning progressions and recognizes the distinct and unique cultural heritages of American Indians.

(2) and (3) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.905 GRADUATION REQUIREMENTS (1) As a minimum, a school district's requirements for graduation shall include a total of 20 units of study that enable all students to meet the content standards and content-specific grade-level or grade-band learning progressions. Students may demonstrate achievement through a flexible system of pupil-centered learning.

(2) through (4) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.906 HIGH SCHOOL CREDIT (1) remains as proposed.

(a) A unit of credit is defined as the equivalent of at least 8100 minutes for one year, equivalent proficiency without regard to time, or demonstration of an equivalent course that meets the district's curriculum and assessment requirements, which are aligned with each of the content standards.

(b) through (4) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.907 DISTANCE, ONLINE, AND TECHNOLOGY-DELIVERED LEARNING (1) through (2)(a) remain as proposed.

(b) Distance, online, and technology-delivered learning programs and/or courses shall at a minimum be aligned with state content standards and content-specific grade-level or grade-band learning progressions.

(c) remains as proposed.

(3) Except as provided in (3)(a), teachers of distance, online, and technology-delivered learning programs shall be licensed and endorsed in Montana or elsewhere in the area of instruction taught with such license granted as a result of the completion of an approved professional educator preparation program as defined in ARM 10.57.102. School districts receiving distance, online, and technology-delivered learning programs described in this rule shall have a distance learning facilitator for each course and available to the students.

(a) through (5) remain as proposed.

(a) annually register, prior to delivering courses, with the Office of Public Instruction;

(b) and (c) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.908 SCHOOL FACILITIES (1) and (2) remain as proposed.

(3) The local board of trustees shall provide for educational facilities which are functional and safe for the conduct of the educational and extracurricular activities of students, and which will meet state ~~or~~ and federal accessibility standards.

(4) through (6) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.1001 PROGRAM STANDARDS (1) It is the local board of trustees' responsibility to ensure the district's curricula align with the state content standards and content-specific grade-level or grade-band learning progressions.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

10.55.1003 PROGRAM FOUNDATION STANDARDS (1) remains as proposed.

(2) Program foundation standards are the common conditions and practices that will be evident in all programs within a school system to ensure that all students have educational opportunity to learn, develop, and demonstrate learning in the content standards and content-specific grade-level or grade-band learning

progressions. All programs shall follow the content standards in the Administrative Rules of Montana. The local board of trustees shall:

(a) and (b) remain as proposed.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, 20-7-101, MCA

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

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

COMMENT 1: 36 commenters supported moving charter schools to its own section and recommended that the board allow charter schools to operate independently of existing school boards of trustees.

COMMENT 2: The Certification Standards and Practices Advisory Council (CSPAC), the Montana Federation of Public Employees (MFPE), Montanans Organized for Education (MOFE), and 11 commenters opposed moving charter schools to its own rule and suggested that it remain under the variances to standards section in ARM 10.55.604.

COMMENT 3: One commenter supported proposed New Rule I and recommended removing the language in (1)(d)(i) through (vi).

RESPONSE: The Board of Public Education partially agreed with Comment 1 to move the charter school language from ARM 10.55.604 to its own rule and disagreed with Comments 2 and 3. The proposed new rule has been numbered ARM 10.55.608.

COMMENT 4: The Education Organizations and three commenters recommended replacing "action" with "strategic" in New Rule II and in several other sections throughout rule.

RESPONSE: The Board of Public Education partially agreed with Comment 4 to add the word "strategic" in New Rule II and has recommended the language read "integrated strategic action plan" in New Rule II and throughout rule.

COMMENT 5: CSPAC, MOFE, and four commenters recommended striking all language after the word "children" in New Rule II(1)(c) and stated that the language is aspirational and cannot be measured.

COMMENT 6: MFPE commented that New Rule II needs to be simplified, provide an extended implementation timeline, and assure adequate technical assistance on best practices to meet community needs.

RESPONSE: The Board of Public Education disagreed with Comments 5 and 6.

COMMENT 7: One commenter supported proposed New Rule II.

COMMENT 8: One commenter opposed proposed New Rule II.

RESPONSE: The Board of Public Education acknowledged Comments 7 and 8 and has numbered proposed New Rule II as ARM 10.55.722.

COMMENT 9: The Montana University System (MUS) proposed the following language in New Rule II(1)(d)(vii): "families and school staff collaborate with members of the community to connect students, families, and staff to post-secondary education opportunities including FAFSA completion, College Application Week (Apply Montana), Decision Day, and other Montana University System post-secondary workforce training and degree program efforts."

RESPONSE: The Board of Public Education partially agreed with Comment 9 and approved the following language in New Rule II(1)(d)(vii): families and school staff collaborate with members of the community to connect students, families, and staff to post-secondary education opportunities, including workforce training, apprenticeship opportunities, career pathways, and degree programs, and encourage students to explore college and career planning tools (including Free Application for Federal Student Aid completion) and incentives provided by post-secondary institutions.

COMMENT 10: CSPAC, MFPE, and three commenters supported proposed New Rule III.

RESPONSE: The Board of Public Education acknowledged Comment 10 and has numbered proposed New Rule III as ARM 10.55.723.

COMMENT 11: The Education Organizations and three commenters recommended making changes in New Rule IV and suggested the following: "(1) The local board of trustees shall ensure the completion of periodic written evaluations of all regularly employed instructional personnel who are under written contract. Employees evaluated shall have access to a copy of the evaluation instrument, the opportunity to respond in writing to the completed evaluation, and access to the employee's files. (2) The Superintendent of Public Instruction shall develop and publish model evaluation instruments that comply with this rule in collaboration with MFPE, Montana Rural Education Association, Montana School Boards Association, School Administrators of Montana, and Montana Small School Alliance. A school district adopting and using one of the model instruments shall be construed to have complied with this rule, though use of one of the models shall not be required provided that the district's evaluation instrument and process substantially conforms to the requirements set forth in this section."

COMMENT 12: MFPE commented that the collective bargaining agreements often specify evaluation timelines, processes, and evaluation instruments to be used and should be taken under consideration in New Rule IV. They stated that the rule

should clarify that the collective bargaining process must be followed where appropriate, and that employees be given access to the evaluation instrument being used before evaluation is conducted, and employees be given access to and copies of documents in the personnel file, and the opportunity to respond in writing.

RESPONSE: The Board of Public Education agreed with Comments 11 and 12 and has numbered proposed New Rule IV as ARM 10.55.724.

COMMENT 13: The Board Accreditation Committee recommended retaining the language in ARM 10.55.701(4)(a) and (b) that states the following: "(4) The local board of trustees shall have written policies and procedures for regular and periodic evaluation of all regularly employed personnel. The individual evaluated shall have access to a copy of the evaluation instrument, the opportunity to respond in writing to the completed evaluation, and access to his or her files. Personnel files shall be confidential.

(a) The evaluation system used by a school district for licensed staff shall, at a minimum:

(i) be conducted on at least an annual basis with regard to nontenure staff and according to a regular schedule adopted by the district for all tenure staff;

(ii) be aligned with applicable district goals, standards of the Board of Public Education, and the district's mentorship and induction program required under ARM 10.55.701(5)(b);

(iii) identify what skill sets are to be evaluated

(iv) include both formative and summative elements; and

(v) include an assessment of the educator's effectiveness in supporting every student in meeting rigorous learning goals through the performance of the educator's duties.

(b) The Superintendent of Public Instruction shall develop and publish model evaluation instruments that comply with this rule in collaboration with the MEA-MFT, Montana Rural Education Association, Montana School Boards Association, School Administrators of Montana, and Montana Small School Alliance. A school district adopting and using one of the model instruments shall be construed to have complied with this rule, though use of one of the models shall not be required provided that the district's evaluation instrument and process substantially conforms to the requirements set forth in this section."

RESPONSE: The Board of Public Education partially agreed with Comment 13 and excluded the language in New Rule IV(4)(a)(i) through (v) as it related to previous board action.

COMMENT 14: MFPE supported New Rule V and recommended that technical assistance be provided when needed.

RESPONSE: The Board of Public Education agreed with Comment 14 and encouraged those seeking technical assistance to work with the Office of Public Instruction. The board has numbered proposed New Rule V as ARM 10.55.806.

COMMENT 15: The Education Organizations and three commenters recommended making changes in ARM 10.55.601 and suggested the following: "(3) To ensure a learner-centered system and establish a plan for continuous education improvement, the school district and each of its schools shall develop, implement, monitor, and evaluate continuous an integrated school improvement plans action strategic plan and make the plans plan publicly publically available. These plans shall be reviewed on a yearly basis to To align with local context and needs, the district integrated action strategic plan shall be developed updated at least every three years based on a comprehensive needs assessment with meaningful stakeholder input and feedback that comply, at a minimum, with applicable requirements in Title 2, Chapter 3, Part 1, MCA. The integrated action plan must be evaluated, and progress reviewed annually. The plan must clarify what specific steps must be taken to achieve the district graduate profile education profile and reflect a continuous improvement process. (4) Each plan shall include: (a) a school district level education level education profile of a graduate as defined in ARM 10.55.602(22); (b) the school district's educational goals pursuant to the requirements of ARM 10.55.701; the school district's and each of its school's identified area(s) of need based on an analysis of school level comprehensive needs assessment; (c) a description of planned progress toward implementing all content and-program area standards, in accordance with the schedule in ARM 10.55.603; the school district's and each of school's desired outcomes that align with the district graduate profile; (d) a description of strategies for assessing student progress toward meeting all content standards, pursuant to the requirements of ARM 10.55.603 and ARM 10.56.101; and the school district's educational goals for the school district that are incorporated and made applicable to and each school within the district; pursuant to the requirements of ARM 10.55.701; (e) a professional development component, in accordance with ARM 10.55.714. a description of the district's and each school's evidence-based strategies, action steps, measures, success criteria, and evidence that are aligned with the graduate profile and will be implemented, monitored, and evaluated; (f) a description of how the district and each of its schools will meet programmatic requirements of state and federal grants; (g) a description of planned progress toward implementing all content and program area standards, in accordance with the schedule in ARM 10.55.603; (iv) (h) a description of strategies for assessing student progress toward meeting growth and proficiency of all content standards and content-specific learning progressions, pursuant to the requirements of ARM 10.55.603 and ARM 10.56.101; and (v) (i) a professional development, mentoring, induction, and evaluation components, in accordance with ARM 10.55.714, [New Rule III], and [New Rule IV]; (j) a description of strategies for family and community engagement, in accordance with [New Rule II]; (k) a description of strategies to maintain and enhance a positive school climate, in accordance with ARM 10.55.801; (l) a description of a learning model(s) aligned to the graduate profile; and (g) a description of strategies for addressing the needs of gifted and talented students in accordance with ARM 10.55.804, special education children with disabilities in accordance with ARM 10.55.805, English learners students in accordance with [New Rule V], and other populations with individual needs at-risk students as defined in section 20-1-101, MCA. (5) The local board of trustees shall report and submit their adopted continuous integrated school improvement strategic

action plan with to the Superintendent of Public Instruction. (6) The Superintendent of Public Instruction shall develop and implement procedures necessary to monitor and evaluate the effectiveness of the implementation of the continuous integrated improvement strategic action plan of each school district ~~and its schools~~. (7) To ensure learner-centered systems and continuous educational improvement, the Superintendent of Public Instruction shall provide guidance, resources, and evaluation to assist in the implementation of the district ~~and school~~ integrated action strategic plan to improve ~~teaching and learning~~ outcomes for all students."

RESPONSE: The Board of Public Education agreed with Comment 15 and has made the necessary changes in ARM 10.55.601.

COMMENT 16: The Board Accreditation Committee noted that there are inconsistencies when referring to "integrated action plan" or "district action plan" and recommended remaining consistent in using "integrated action plan" throughout rule.

RESPONSE: The Board of Public Education withdrew their action on Comment 16, as it was related to the board's previous action in Comment 4.

COMMENT 17: The Board Accreditation Committee recommended reviewing the following definitions in ARM 10.55.602, as they are not used in rule:

- (7) Class 8 license: only referenced one other time in definition (17) dual credit
- (8) Combined elementary-high school district: only referenced one other time in definition (57) School system
- (11) Concurrent enrollment: not referenced elsewhere in rule
- (17) Dual credit: not referenced elsewhere in rule
- (18) Dual enrollment: not referenced elsewhere in rule
- (24) Independent elementary school district: only referenced in (57) School system
- (25) Indian Education for All: not referenced elsewhere in rule
- (30) K-12 district: not referenced elsewhere in rule
- (37) Minimum aggregate hours: not referenced elsewhere in rule
- (39) Misassignment: not referenced elsewhere in rule
- (41) Offsite instructional setting: not referenced elsewhere in rule
- (42) Online learning: not referenced elsewhere in rule
- (44) Postsecondary and workforce readiness: not referenced elsewhere in rule
- (58) Stakeholder engagement: not referenced elsewhere in rule
- (68) Work-based learning: referenced in (43) Personalized learning

RESPONSE: The board consulted with rule reviewers in state government and was advised against adding definitions to the rule that do not appear anywhere in the rule. It was explained there is no need to define words or phrases that are not contained within the language of the administrative rule. After consultation, the Board of Public Education acknowledged Comment 17 and agreed to remove any terms in ARM 10.55.602 that do not appear throughout ARM Title 10, chapter 55.

COMMENT 18: MFPE proposed the following addition to ARM 10.55.602(5), "charter school operates under... locally elected board of trustees in an existing public school district."

RESPONSE: The Board of Public Education agreed with Comment 18 and made the necessary changes in ARM 10.55.602(5).

COMMENT 19: MFPE noted that the definition in ARM 10.55.602(7) has a citation error, as ARM 10.57.102 does not include a definition for Class 8 licenses.

RESPONSE: The Board of Public Education acknowledged Comment 19 and removed the term "Class 8 license" from ARM 10.55.602, as it does not appear in other rules in ARM Title 10, chapter 55.

COMMENT 20: The Education Organizations and three commenters recommended removing the definition for ARM 10.55.602(22) "Graduate profile," per their recommended revisions throughout rule.

COMMENT 21: The Board Accreditation Committee noted that there are inconsistencies with the use of "graduate profile" or "profile of a graduate" in ARM 10.55.602 and throughout rule and recommended remaining consistent throughout rule.

RESPONSE: The Board of Public Education disagreed with Comment 20 and acknowledged Comment 21 and retained the "graduate profile" language in ARM 10.55.602(22) and throughout rule.

COMMENT 22: The Education Organizations and three commenters proposed changes to the definition for ARM 10.55.602(27) "Integrated action plan" and recommended the following: "Integrated ~~action~~ strategic plan" means a district plan adopted by the board of trustees that: (a) is aligned with the peoples' goal in Article X, Section 1 of the Montana Constitution of developing the full educational potential of each person; (b) ensures a learner-centered system and continuous improvement that reflects local context and needs.; (c) is based on school level comprehensive needs assessment.; (d) has engaged stakeholders and addresses incorporates stakeholder input and feedback.; and (e) aligns plans across with requirements of applicable required state and federal programs."

RESPONSE: The Board of Public Education agreed with Comment 22 and made the necessary changes in ARM 10.55.602(27) in addition to those previously agreed upon by the board.

COMMENT 23: The Education Organizations and three commenters proposed changes to the definition for ARM 10.55.602(31) "Learning model" and recommended the following: "Learning model" means the learning experiences students engage in and teachers facilitate that are aligned to the desired attributes of a graduate profile. an education profile."

RESPONSE: The Board of Public Education agreed with the small edit in Comment 23 and made the necessary changes in ARM 10.55.602(31) in addition to those based on previous board action.

COMMENT 24: MFPE inquired whether there should be a definition for "grade-band."

RESPONSE: The Board of Public Education disagreed with Comment 24 and stated that the term "grade-band" is generally understood by the education community.

COMMENT 25: The Education Organizations and three commenters proposed changes to the definition for ARM 10.55.602(35) "Measure" and recommended the following: "Measure" means a way to assess the level of proficiency on a performance indicator aligned to the district ~~graduate profile~~, education profile."

RESPONSE: The Board of Public Education acknowledged Comment 25 and made the necessary changes in ARM 10.55.602(35) based on previous board action.

COMMENT 26: One commenter noted that the definition for ARM 10.55.602(36) "Middle grades" is confusing.

RESPONSE: The Board of Public Education disagreed with Comment 26 and stated that 20-6-501, MCA, outlines the definition for middle school as grades 4-8 and junior high as grades 7-9, which is in alignment with the middle grades definition in ARM 10.55.602(36).

COMMENT 27: MFPE noted that ARM 10.55.602(38) "Minimum requirements" seems unnecessary and questioned where "10 or more students" was stated in the rules.

RESPONSE: The Board of Public Education partially agreed with Comment 27 and proposed the following definition in ARM 10.55.602: "Minimum requirement as used in ARM 10.55.606 means a group of 10 or more students for reporting valid and reliable results as it pertains to student performance."

COMMENT 28: MFPE recommended adding public entities to ARM 10.55.602(43)(b) "Personalized learning."

RESPONSE: The Board of Public Education agreed with Comment 28 and made the necessary changes in ARM 10.55.602(43)(b).

COMMENT 29: One commenter supported the definition for ARM 10.55.602(49) "Program area standards."

RESPONSE: The Board of Public Education acknowledged Comment 29 and made the necessary changes in ARM 10.55.602(49).

COMMENT 30: The Education Organizations and three commenters proposed changes to the definition for ARM 10.55.602(51) "Pupil instruction" and recommended the following: "Pupil instruction" as provided in section 20-1-101(17), MCA, means the conduct of organized instruction of learning opportunities for pupils enrolled in public schools while under the supervision of a teacher. learning opportunities for pupils enrolled in public schools while under the supervision of a teacher. The term includes any directed, distributive, collaborative, or work-based or other experiential learning activity provided, supervised, guided, facilitated, or coordinated under the supervision of a teacher that is conducted purposely to achieve content proficiency and facilitate the acquisition of knowledge, skills, and abilities by pupils enrolled in public schools, and to otherwise fulfill their full educational potential."

RESPONSE: The Board of Public Education partially agreed with Comment 30 and recommended the following definition in ARM 10.55.602: "Pupil instruction is as defined in 20-1-101, MCA."

COMMENT 31: The Education Organizations and three commenters proposed changes to the definition for ARM 10.55.602(52) "Pupil instruction day" and recommended the following: "Pupil instruction day" means a school day of pupil instruction ~~when organized instruction is conducted with students under the supervision of a teacher."~~

RESPONSE: The Board of Public Education agreed with Comment 31 and made the necessary changes in ARM 10.55.602(52).

COMMENT 32: MFPE noted that 20-9-396, MCA, referenced in ARM 10.55.602(54)(b) "School" does not exist in statute and recommended it be struck.

RESPONSE: The Board of Public Education acknowledged Comment 32 and made the necessary changes in ARM 10.55.602(54)(b) to update the appropriate statute as 20-9-306, MCA.

COMMENT 33: The Education Organizations and three commenters proposed changes to the definition for ARM 10.55.602(57)(a), (b), and (c) "School system" and recommended the following: "combined elementary-high school district" means an elementary district and a high school district which are combined into a single school system for district administration purposes through a k-12 district, unified school system or joint board.; (b) "independent high school district" means a district organized for the purpose of providing public education for all or any combination of grades 9 through 12 that is operated independent of an elementary district; and (c) independent elementary school district" means a district organized for the purpose of providing public education for all or any combination of grades kindergarten through grade 8 that is operated independent of a high school district."

RESPONSE: The Board of Public Education agreed with Comment 33 and made the necessary changes in ARM 10.55.602(57).

COMMENT 34: The Education Organizations and three commenters proposed changes to the definition for ARM 10.55.602(58) "Stakeholder engagement" and recommended the following: "Stakeholder engagement" means a measurable, inclusive, intentional, and ongoing process of communicating to, learning from, and partnering with stakeholders to best support continuous school improvement and learning outcomes for all students. Stakeholder engagement shall satisfy, at a minimum, the applicable requirements for encouraging and facilitating public participation in Title 2, Chapter 3, Part 1, MCA."

COMMENT 35: MFPE noted that the definition in ARM 10.55.602(58) "Stakeholder engagement" involves continuous engagement, ongoing, measurable, etc., and stated that these requirements will take more time for proper implementation.

RESPONSE: The Board of Public Education acknowledged Comments 34 and 35 and removed the term "Stakeholder engagement" from ARM 10.55.602, as it does not appear in other rules in ARM Title 10, chapter 55.

COMMENT 36: The Education Organizations and three commenters proposed changes to the definition for ARM 10.55.602(62) "Student performance standards" and recommended the following: "Student performance standards" means ~~minimum standards of a quality education, which measures~~ the measurement of student performance and proficiency on annual state level summative assessments and graduation rates used to determine the accreditation status of a school."

RESPONSE: The Board of Public Education agreed with Comment 36 and made the necessary changes in ARM 10.55.602(62).

COMMENT 37: MFPE recommended adding a reference to public service and public workplace settings to ARM 10.55.602(68) "Work-based learning."

RESPONSE: The Board of Public Education acknowledged Comment 37 and removed the term "Work-based learning" from ARM 10.55.602, as it does not appear in other rules in ARM Title 10, chapter 55.

COMMENT 38: CSPAC and one commenter recommended the board consider available resources and training to support school districts as they implement requirements for proficiency-based learning in ARM 10.55.603.

RESPONSE: The Board of Public Education agreed with Comment 38 and stated that the Office of Public Instruction should ensure there are relevant and timely professional development opportunities available on the Teacher Learning Hub to support the new proficiency-based learning requirements in ARM 10.55.603.

COMMENT 39: One commenter supported replacing "parents" with "families" in

ARM 10.55.603(4)(a).

RESPONSE: The Board of Public Education agreed with Comment 39 and has made the necessary changes in ARM 10.55.603.

COMMENT 40: MFPE suggested reconsideration of the proposed due date for an application for a variance in ARM 10.55.604(1)(c) and stated it could be a reaction to a shortage or inability to hire, rather than a plan to meet or exceed standards through a creative approach.

RESPONSE: The Board of Public Education disagreed with Comment 40 and stated that the proposed changes in ARM 10.55.604 provide additional flexibility for school districts to seek a variance to standard.

COMMENT 41: MFPE opposed the removal of the "joint endorsement of reviewed board members" and recommended retaining the groups in ARM 10.55.604(1)(d)(i) and recommended MACIE be included to review and recommend the tribal council representative.

COMMENT 42: MFPE opposed the deletion of language related to seeking advice from a pool of experts in ARM 10.55.604(1)(d)(ii)(A) through (C).

RESPONSE: The Board of Public Education disagreed with Comments 41 and 42 and has adopted the proposed revisions in ARM 10.55.604.

COMMENT 43: Northwest Montana Association of School Superintendents (NWMASS) supported the variance to standards process in ARM 10.55.604 to assist and provide flexibilities with hard-to-fill positions.

COMMENT 44: One commenter shared concern with the appointment process outlined in ARM 10.55.604(1)(d)(i) and stated there could be political bias.

RESPONSE: The Board of Public Education acknowledged Comments 43 and 44 and has adopted the proposed revisions in ARM 10.55.604 based on previous board action.

COMMENT 45: One commenter proposed the elimination of ARM 10.55.604(1)(a).

RESPONSE: The Board of Public Education disagreed with Comment 45 and stated that the application process is important to the variance to standards process in ARM 10.55.604.

COMMENT 46: The Education Organizations, MFPE, and three commenters proposed changes to ARM 10.55.605 and recommended the following: "(1) Accredited with distinction means the school has met the assurance standards, exceeded student performance standards as defined in ARM 10.55.606, and met the licensure endorsement requirements related to teaching assignments. A copy of the

Accreditation Status Criteria Reference Guide must be made publicly available by the Superintendent of Public Instruction. Three consecutive years in the accredited with distinction status allows the local board of trustees to waive assurance standards for the school for three years remain accredited with distinction thereafter solely on the basis of whether the school continues to exceed student performance standards as defined in ARM 10.55.606 performance from year to year thereafter. If the school ceases to exceed student performance standards, the accreditation of such school will be determined through standards applicable to initial accreditation."

RESPONSE: The Board of Public Education acknowledged Comment 46 and has made the necessary revisions in ARM 10.55.604 based on previous board action.

COMMENT 47: Eight commenters opposed the new category "(1) Accredited with Distinction" in ARM 10.55.605 and stated that the distinction category goes above the requirement for minimum standards.

COMMENT 48: MFPE opposed the three years on probation and stated that is too long and recommended a revision in ARM 10.55.605(3).

RESPONSE: The Board of Public Education agreed with Comments 47 and 48 and has made the necessary changes in ARM 10.55.605 to retain the current language. The board stated that revisions to ARM 10.55.605 will require additional changes to be made to ARM 10.55.606 to ensure common language.

COMMENT 49: The Board Accreditation Committee stated that there are inconsistencies in the "accredited with probation" and "accredited on probation" language in ARM 10.55.605 and recommended remaining consistent by using "accredited with probation" throughout rule.

RESPONSE: The Board of Public Education acknowledged Comment 49 and has made the necessary revisions in ARM 10.55.605 based on previous board action.

COMMENT 50: The Board Accreditation Committee commented that ARM 10.55.605 needs more work. There are major concerns from the committee on numerous areas. Worth noting are removing the nonaccredited status language in (9), the ability for a board of trustees to waive assurance standards in (1), and the new names and levels of accreditation. Potential changes in this rule will also require changes in ARM 10.55.606.

RESPONSE: The board discussed the proposed revisions to ARM 10.55.605 at the January 2023 meeting noting that the revisions to ARM 10.55.601 make the accreditation process more robust. Additionally, 20-9-311, MCA, refers to "non accredited" status, so that category cannot be removed from rule, as it directly relates to average number belonging. Board members stated that revisions to this rule could be made in the future, but with little research provided regarding the reason for the proposed revisions, or examples of how other states are handling school accreditation processes, now was not the time to make these changes. The

Board of Public Education agreed with Comment 50 and has made the necessary changes in ARM 10.55.605 to retain the current language. The board stated that revisions to ARM 10.55.605 will require additional changes to be made to ARM 10.55.606 to ensure common language.

COMMENT 51: One commenter opposed the language in ARM 10.55.606(3) through (7).

RESPONSE: The Board of Public Education disagreed with Comment 51 and stated that this language is important as it outlines the accreditation process in ARM 10.55.605.

COMMENT 52: The Education Organizations and three commenters proposed changes to ARM 10.55.701 and recommended the following: "(2) Each school district shall make available to the staff and public: (a) ~~goals that reflect the district's strategic plan of education~~ an integrated strategic action plan that includes a graduate profile an education profile as outlined in ARM 10.55.601; (b) sequential K-12 curriculum for each program area that aligns to the content standards, ~~specific grade-level~~ grade band learning progressions, and program area standards; (c) policies establishing student assessment procedures that ensure evaluation of the district's curriculum and student learning. These procedures shall specify how and when data are to be collected, analyzed, and reported; ~~and~~ (d) ~~policies that delineate policies providing descriptions of the roles and responsibilities of the local board of trustees, superintendent, and personnel employed by the school district.~~ (e) a policy addressing grievances for students, families, staff, and stakeholders. (f) any other policies required by state or federal law."

RESPONSE: The Board of Public Education agreed with Comment 52 and recommended that the Superintendent of Public Instruction keep a public list of policies required by state and federal requirements in ARM 10.55.701.

COMMENT 53: The Education Organizations and three commenters proposed changes to ARM 10.55.701 and recommended the following: "(3)(a) ~~keep parents/guardians up to date on students' progress;~~ implement family and community engagement strategies as found in [New Rule II]; and (ii) (b) engage in a continuous school improvement process that is aligned with the school district's integrated strategic plan; and. (b) ~~establish mentoring and induction programs to assist licensed staff in meeting teaching standards as defined in ARM 10.55.701(4)(a) and (b).~~ (4) The local board of trustees shall develop, with stakeholder input, a district mission and vision an integrated strategic plan to which that aligns to the district graduate profile education profile is aligned. (5) The local board of trustees with meaningful stakeholder involvement shall establish and implement such additional policies as the board deems necessary that: (a) provide for the safety and well-being of all students and staff;".

RESPONSE: The Board of Public Education agreed with Comment 53 and has made the necessary changes in ARM 10.55.701.

COMMENT 54: MFPE and three commenters recommended retaining the language in ARM 10.55.701(2)(e) through (s).

COMMENT 55: One commenter opposed the proposed revisions to eliminate the requirement that school boards adopt policies pertaining to bullying, academic freedom, due process, materials selection, Indian Education for All, suicide prevention, emergency plans, etc.

COMMENT 56: Six commenters opposed the proposed revisions and stated that required policies should be listed in rule.

RESPONSE: The Board of Public Education acknowledged Comments 54 through 56 and made the necessary changes in ARM 10.55.701 based on previous board action.

COMMENT 57: MFPE noted that the proposed rules regarding superintendent duties do not align with requirements in current Educator Preparation Program Standards.

RESPONSE: The Board of Public Education disagreed with Comment 57, as the duties currently listed in ARM 10.55.702 are very similar to those stipulated in 20-4-402, MCA.

COMMENT 58: MFPE noted that the proposed rules regarding principal duties do not align with requirements in current Educator Preparation Program Standards.

RESPONSE: The Board of Public Education agreed with Comment 58 and has made the necessary revisions in ARM 10.55.703 to retain the current language. The board agreed to include the proposed changes made to internships in (1)(b) and the additional language in the last sentence, which would read, "(3) The principal shall carry out the district's policies and procedures, provide instructional leadership ~~that allows for personalized and proficiency-based learning models, engage in strategic planning and school improvement, intentionally engage families and community members, ensure a positive school climate,~~ and be responsible for the effective day-to-day operation of the school, including the management of finances, materials, and human resources to maximize student learning outcomes."

COMMENT 59: CSPAC, MFPE, the Education Organizations, and 87 commenters opposed the proposed revisions in ARM 10.55.704 and recommended retaining the ratios for superintendents.

RESPONSE: The board received extensive public comment on the proposed revisions from the Superintendent in ARM 10.55.704. The board held a lengthy discussion at the November 2022 meeting on this section of rule, and ultimately determined that by removing the ratios as proposed by the Superintendent, the standards were at risk of no longer complying with the guarantee, provided by the

Constitution, of a basic system of free quality public education. Based upon these discussions, the Board of Public Education agreed with Comment 59 and voted unanimously to retain the current language in ARM 10.55.704.

COMMENT 60: The Board Accreditation Committee recommended removing ARM 10.55.704(1)(a) through (c) and stated that this language is already referenced in statute, which is referenced in (1).

RESPONSE: The Board of Public Education acknowledged Comment 60 and made the necessary changes in ARM 10.55.704 based on previous board action in Comment 59.

COMMENT 61: CSPAC, MFPE, the Education Organizations, and 95 commenters opposed the proposed revisions in ARM 10.55.705 and recommended retaining the ratios for principals.

RESPONSE: The Board of Public Education agreed with Comment 61 and has made the necessary changes in ARM 10.55.705 to retain the ratios contained in the current language.

COMMENT 62: The Board Accreditation Committee stated that ARM 10.55.705 needs work and that they are unclear of the differences in (1) and (2).

RESPONSE: The Board of Public Education acknowledged Comment 62 and made the necessary changes in ARM 10.55.705 based on previous board action in Comment 61.

COMMENT 63: The Education Organizations and three commenters proposed changes to ARM 10.55.706 and recommended the following: "(1) Teachers ~~should~~ shall use their professional judgment and measures of student growth and proficiency to provide engaging and highly effective ~~deliver high-quality~~ pupil instruction to all students based on individual need."

RESPONSE: The Board of Public Education agreed with Comment 63 and has made the necessary changes in ARM 10.55.706.

COMMENT 64: MFPE, the Education Organizations, and 55 commenters opposed the proposed revisions in ARM 10.55.708 and recommended retaining the language in this rule regarding teaching assignments.

RESPONSE: The board held a discussion at the November 2022 meeting regarding the proposed revisions from the Superintendent for ARM 10.55.708. Board members discussed the importance of teacher preparation time and ultimately determined that it is important to retain time for teachers to prepare. The Board of Public Education agreed with Comment 64 and has made the necessary changes in ARM 10.55.708.

COMMENT 65: CSPAC, Montana House Democrats, MOFE, NWMASS, the Education Organizations, and 1,044 commenters opposed the proposed revisions in ARM 10.55.709 and recommended retaining the ratios for school librarians.

COMMENT 66: MFPE opposed ARM 10.55.709 as proposed and supported restoring the staffing ratios and retaining the requirement that the library be housed in a central location.

RESPONSE: At the November 2022 meeting, board members discussed the proposed revisions from the Superintendent to remove the ratios for librarians. Board members expressed concerns not with the removal of the ratios, but that there is nothing outlining how these changes would be implemented, no processes have been developed to implement the changes, and members expressed their concerns over how the standards would be met. Board members noted their support of librarians and the important role they play in Montana's public schools. The Board of Public Education agreed with Comments 65 and 66 and has made the necessary changes in ARM 10.55.709 to retain the current language.

COMMENT 67: The Board Accreditation Committee noted that ARM 10.55.709 needs work and stated that the language in (2) does not require any action from the local board of trustees, and therefore recommended that the board approve language that requires the local board of trustees take action to provide library services personnel.

RESPONSE: The Board of Public Education acknowledged Comment 67 and has made the necessary changes in ARM 10.55.709 based on previous board action.

COMMENT 68: One commenter supported reducing the ratio for school librarians to 250:1 in ARM 10.55.709.

RESPONSE: The Board of Public Education disagreed with Comment 68 and has made the necessary changes in ARM 10.55.709.

COMMENT 69: One commenter supported the proposed revisions in ARM 10.55.709.

COMMENT 70: One commenter opposed striking language in ARM 10.55.709(1) and noted that this removed the responsibility of having a library in each school.

RESPONSE: The Board of Public Education acknowledged Comments 69 and 70 and has made the necessary changes in ARM 10.55.709 based on previous board action.

COMMENT 71: CSPAC, Montana House Democrats, MOFE, MFPE, NWMASS, the Education Organizations, the Missoula County Public Schools Counselor Leadership Team, and 1,273 commenters opposed the proposed revisions in ARM 10.55.710 and recommended retaining the ratios for school counselors.

RESPONSE: The board discussed comments pertaining to ARM 10.55.710 at the November 2022 meeting. Board members raised concerns that there is not a plan to implement the proposed revisions at the local school district level. After public comment and board discussion, the Board of Public Education agreed with Comment 71 and has made the necessary changes in ARM 10.55.710 to retain the current language.

COMMENT 72: 34 commenters supported reducing the ratio for school counselors (300:1, 250:1) in ARM 10.55.710.

RESPONSE: The Board of Public Education disagreed with Comment 72 and has made the necessary changes in ARM 10.55.710.

COMMENT 73: The Board Accreditation Committee noted that ARM 10.55.710 needs work and stated that the language in (2) does not require any action from the local board of trustees, and therefore recommended that the board approve language that requires the local board of trustees take action to provide library services personnel.

COMMENT 74: One commenter supported the proposed revisions in ARM 10.55.710.

RESPONSE: The Board of Public Education acknowledged Comments 73 and 74 and has made the necessary changes in ARM 10.55.710 based on previous board action.

COMMENT 75: CSPAC, MOFE, MFPE, and 59 commenters opposed the proposed revisions in ARM 10.55.712 and recommended retaining the requirement for instructional aides.

RESPONSE: The Board of Public Education partially agreed with Comment 75 and has made the following changes to the language in ARM 10.55.712: "The school district must ~~provide additional~~ assign qualified human resources that comply with all fingerprint and background check requirements when exceeding maximum class sizes at a rate~~Instructional aides are mandatory when class size or teacher load exceed the standards. An instructional aide shall be assigned a minimum of 1 1/2 hrs per day, per student overload, up to six hours.~~"

COMMENT 76: Seven commenters supported the proposed revisions in ARM 10.55.712 and recommended the following language: "The school district must provide additional and competent human resources when exceeding the maximum class size."

RESPONSE: The Board of Public Education disagreed with Comment 76 and stated that this language is unclear.

COMMENT 77: The Board Accreditation Committee stated that the "human resources" language in ARM 10.55.712(5) is unclear in terms of who and what would qualify as a human resource, and recommended the following language: "The school district must provide additional assign qualified human resources that comply with all fingerprint and background check requirements when exceeding maximum class sizes."

RESPONSE: The board held a lengthy discussion regarding Comment 77 discussing the proposed change from "instructional aid" to "human resources" when determining when a background check is required, as well as the proposed elimination of the 1 1/2-hour requirement per student overload for when an additional person is required in the classroom due to a class size overload. Members stated concerns over removing the sideboards of having the 1 1/2-hour requirement that is eliminated in the Superintendent's proposal. The Board of Public Education partially agreed with Comment 77 by agreeing with the proposed "human resource" language, but reinstating the 1 1/2-hour requirement per student and has recommended the following language in ARM 10.55.712: "The school district must provide additional assign qualified human resources that comply with all fingerprint and background check requirements when exceeding maximum class sizes at a rate instructional aides are mandatory when class size or teacher load exceed the standards. An instructional aide shall be assigned a minimum of 1 1/2 hrs per day, per student overload, up to six hours."

COMMENT 78: The Education Organizations and three commenters proposed changes to this rule and recommended the following in ARM 10.55.714: "(1)(a) shall be aligned with the district graduate profile education profile and educational goals outlined in the district integrated action strategic plan described in ARM 10.55.601 and objectives; (b) shall be provided to address safety, well-being, and mental health of students and staff;"

RESPONSE: The Board of Public Education agreed with Comment 78 and has made the necessary changes in ARM 10.55.714.

COMMENT 79: MFPE supported the proposed revisions in ARM 10.55.714.

RESPONSE: The Board of Public Education acknowledged Comment 79 and has made the necessary revisions in ARM 10.55.714 based on previous board action.

COMMENT 80: The Education Organizations and three commenters proposed changes to this rule and recommended the following in ARM 10.55.715: "(1)(a)... The designated professional has the responsibility to provide regularly scheduled communication and direction to the instructional paraprofessional and not to delegate any activity to the instructional paraprofessional that requires professional skill, knowledge, and judgment reserved to licensed teachers."

RESPONSE: The Board of Public Education disagreed with Comment 80 and stated that the proposed language could be too restrictive.

COMMENT 81: MFPE supported the proposed revisions in ARM 10.55.715.

RESPONSE: The Board of Public Education agreed with Comment 81 and has made the necessary revisions in ARM 10.55.715.

COMMENT 82: MFPE supported the proposed revisions in ARM 10.55.716.

RESPONSE: The Board of Public Education agreed with Comment 82 and has made the necessary revisions in ARM 10.55.716.

COMMENT 83: MFPE supported the proposed revisions in ARM 10.55.717.

RESPONSE: The Board of Public Education agreed with Comment 83 and has made the necessary revisions in ARM 10.55.717.

COMMENT 84: MFPE supported the proposed revisions in ARM 10.55.718.

RESPONSE: The Board of Public Education agreed with Comment 84 and has made the necessary revisions in ARM 10.55.718.

COMMENT 85: The Education Organizations and three commenters proposed changes to this rule and recommended the following in ARM 10.55.721: "(1) A local board of trustees shall adopt a policy addressing a school safety plan or emergency operations plan. The plan required by this rule shall be periodically reviewed with stakeholder input and updated as determined necessary by the trustees based on changing circumstances pertaining to school safety. Nothing in this rule shall be construed to require disclosure of elements of a school safety plan protected from public disclosure under the safety and security exceptions set forth in section 2-6-1003, MCA."

RESPONSE: The Board of Public Education agreed with Comment 85 and has made the necessary revisions in ARM 10.55.721.

COMMENT 86: MFPE supported the proposed revisions in ARM 10.55.721.

RESPONSE: The Board of Public Education acknowledged Comment 86 and has made the necessary revisions in ARM 10.55.721 based on previous board action.

COMMENT 87: MFPE supported the proposed revisions in ARM 10.55.801.

RESPONSE: The Board of Public Education agreed with Comment 87 and has made the necessary revisions in ARM 10.55.801.

COMMENT 88: The Education Organizations and three commenters proposed changes to this rule and recommended the following in ARM 10.55.802: "(1) It is the purpose of the accreditation standards to guarantee equality of educational

opportunity and to respect the dignity of every person in accordance with Article II, Section IV of the Montana Constitution and federal law regardless of race, color, sex, culture, social origin or condition, or political or religious ideas, without with prejudice of any kind toward none. This includes, but is not limited to, programs, facilities, educational materials, curriculum, counseling, library services, and extracurricular activities."

RESPONSE: The Board of Public Education agreed with Comment 88 and has made the necessary revisions in ARM 10.55.802.

COMMENT 89: The Board Accreditation Committee stated that the language under ARM 10.55.803(1)(a) is not consistent and recommended the following changes: "(1)(a) high quality instruction provided by a qualified educator that meets each of the following criteria: (i) ~~students are engaged~~ engages students in authentic learning experiences that tie to their interests; (ii) ~~students are all included~~ includes students in activities and given equal opportunity;"

RESPONSE: The Board of Public Education agreed with Comment 89 and has made the necessary revisions in ARM 10.55.803.

COMMENT 90: MFPE supported the proposed revisions in ARM 10.55.804.

RESPONSE: The Board of Public Education agreed with Comment 90 and has made the necessary revisions in ARM 10.55.804.

COMMENT 91: MFPE supported the proposed revisions in ARM 10.55.901.

RESPONSE: The Board of Public Education agreed with Comment 91 and has made the necessary revisions in ARM 10.55.901.

COMMENT 92: CSPAC, MFPE, MOFE, and 113 commenters opposed the proposed changes in ARM 10.55.902 to remove required elective offerings for middle grades.

RESPONSE: The board discussed the proposed revisions to ARM 10.55.902 and the public comments received concerning ARM 10.55.902 at the January 2023 meeting. Board members expressed concerns about removing electives that students enjoy, specifically CTE courses, and that it is important for students to have access to a wide variety of electives. Board members discussed the Student Engagement Panel the previous day, noting that the students all said elective courses are important to them and that they should remain. The Board of Public Education agreed with Comment 92 and has made the necessary changes in ARM 10.55.902 to retain the current language.

COMMENT 93: The Education Organizations and three commenters proposed changes to this rule and recommended the following in ARM 10.55.902: "10.55.902 BASIC EDUCATION PROGRAM: MIDDLE GRADES JUNIOR HIGH SCHOOL, 7TH

AND 8TH GRADE PROGRAM, OR MIDDLE SCHOOL (1) A school district's junior high school, 7th and 8th grade program, or middle school that complies with the requirements of this rule shall be accredited by the Board of Public Education in such capacity, according to the school district's compliance through a junior high school, 7th and 8th grade program, or middle school. To earn accreditation for its junior high school, 7th and 8th grade program, or middle school, the school district A school with middle grades must have an education program aligned to the program area standards that enables all students to meet the content standards and content specific grade-level grade-band learning progressions and recognizes the distinct and unique cultural heritages of American Indians."

RESPONSE: The Board of Public Education agreed with Comment 93 and has made the necessary revisions in ARM 10.55.902.

COMMENT 94: One commenter supported adding native languages in ARM 10.55.902.

COMMENT 95: One commenter supported adding computer science in ARM 10.55.902.

RESPONSE: The Board of Public Education acknowledged Comments 94 and 95 and has made the necessary revisions in ARM 10.55.902 based on previous board action.

COMMENT 96: The MUS supported adding the following language to ARM 10.55.904(2)(j): "1/2 unit of economics or financial literacy (including instruction about the importance of FAFSA completion) within the 3 units of social studies, the 3 units of mathematics, or the 2 units of career and technical education."

RESPONSE: The Board of Public Education disagreed with Comment 96 and has retained the language as proposed in ARM 10.55.904.

COMMENT 97: Two commenters supported the proposed revisions in ARM 10.55.905 to add 1/2 unit of financial literacy for graduation.

COMMENT 98: MFPE supported the proposed revisions in ARM 10.55.905.

COMMENT 99: One commenter supported the proposed revisions in ARM 10.55.905 to add 1/2 unit of civics for graduation.

RESPONSE: The Board of Public Education agreed with Comments 97 through 99 and has made the necessary revisions in ARM 10.55.905.

COMMENT 100: The MUS supported adding the following language to ARM 10.55.905(2)(h): "1/2 unit of economics or financial literacy (including instruction about the importance of FAFSA completion) within the 3 units of social studies, the 3 units of mathematics, or the 2 units of career and technical education."

RESPONSE: The Board of Public Education disagreed with Comment 100 and has retained the language as proposed in ARM 10.55.905.

COMMENT 101: One commenter noted that the addition of civics and economics in ARM 10.55.905 does not go far enough.

COMMENT 102: One commenter expressed the need for more electives in ARM 10.55.905 for students to choose from.

RESPONSE: The Board of Public Education acknowledged Comments 101 and 102 and has made the necessary revisions in ARM 10.55.905 based on previous board action.

COMMENT 103: The Education Organizations and three commenters proposed changes to this rule and recommended the following in ARM 10.55.906: "(1)(a) A unit of credit is defined as the equivalent of at least 8100 minutes for one year or equivalent proficiency without regard to time or demonstration of an equivalent course that meets the district's curriculum and assessment requirements, which are aligned with each of the content standards."

RESPONSE: The Board of Public Education agreed with Comment 103 and has made the necessary revisions in ARM 10.55.906.

COMMENT 104: MFPE opposed the removal of the requirement that teachers of distance, online, and technology-delivered courses receive a license granted because of the completion of an accredited professional educator preparation program in ARM 10.55.907(3) and recommended that the proposed rule be amended to comply with the provisions of current rule in (5)(a), (b), and (c).

RESPONSE: The Board of Public Education partially agreed with Comment 104 to retain the language in ARM 10.55.907(3) and update the reference from "accredited" to "approved."

COMMENT 105: The Board Accreditation Committee noted that this rule needs some cleanup and recommended striking "taught" in ARM 10.55.907(3).

COMMENT 106: The Board Accreditation Committee suggested the following changes in ARM 10.55.907: "(5) Digital content providers serving Montana schools accredited by the Board of Public Education shall: (a) annually, ~~by the first Monday in August~~, register, prior to delivering courses, with the Office of Public Instruction;".

RESPONSE: The Board of Public Education agreed with Comments 105 and 106 and has made the necessary revisions in ARM 10.55.907.

COMMENT 107: MFPE supported the proposed revisions in ARM 10.55.908.

RESPONSE: The Board of Public Education agreed with Comment 107 and has made the necessary revisions in ARM 10.55.908.

COMMENT 108: The Board Accreditation Committee noted that a school district does not have the discretion to decide whether they want to follow state or federal accessibility standards; rather they are required to follow both, and recommended the following language to be consistent with previous language in ARM 10.55.908: "(3) The local board of trustees shall provide for educational facilities which are functional and safe for the conduct of the educational and extracurricular activities of students, and which will meet state or and federal accessibility standards."

RESPONSE: The Board of Public Education acknowledged Comment 108 and has made the necessary revisions in ARM 10.55.908 based on previous board action.

COMMENT 109: MFPE supported the proposed revisions in ARM 10.55.1001.

RESPONSE: The Board of Public Education agreed with Comment 109 and has made the necessary revisions in ARM 10.55.1001.

COMMENT 110: CSPAC, MOFE, and 18 commenters supported adding ratio requirements for special education teachers (30:1) in ARM Title 10, chapter 55.

RESPONSE: The Board of Public Education disagreed with Comment 110 and stated that this proposal was not discussed during the Negotiated Rulemaking process; therefore, it would not be considered at this time.

COMMENT 111: The Board Accreditation Committee recommended retaining "specific grade level" language when referring to grade-band and suggested the following changes throughout rule: "specific grade-level or grade-band."

RESPONSE: The Board of Public Education agreed with Comment 111 and has made the necessary revisions throughout ARM Title 10, chapter 55, while acknowledging that some proposed revisions related to "specific grade-level or grade-band" may have been approved while responding to previous comments. This comment should supersede others related to "specific grade-level or grade-band."

COMMENT 112: Two commenters supported the proposed changes in ARM Title 10, chapter 55.

COMMENT 113: 55 commenters opposed the proposed changes in ARM Title 10, chapter 55.

RESPONSE: The Board of Public Education acknowledged Comments 112 and 113 and has made the necessary revisions in ARM Title 10, chapter 55 based on previous board action.

9. The rules adopted, amended, repealed, and transferred in this notice are effective July 1, 2023.

/s/ McCall Flynn
McCall Flynn
Rule Reviewer

/s/ Madalyn Quinlan
Madalyn Quinlan
Chair
Board of Public Education

Certified to the Secretary of State March 14, 2023.

BEFORE THE DEPARTMENT OF JUSTICE
AND THE BOARD OF CRIME CONTROL
OF THE STATE OF MONTANA

In the matter of the transfer of ARM) NOTICE OF TRANSFER
Title 20, chapter 24 pertaining to the)
Board of Crime Control)

TO: All Concerned Persons

1. The Department of Corrections transfers the above-stated rules to the Department of Justice.

2. This transfer is required because the 2021 Montana Legislature transferred the administrative function and responsibilities of the board from the Department of Corrections to the Department of Justice in Senate Bill 19, Ch. 5, L. 2021.

3. The transferred rules are assigned the following numbers under the Department of Justice:

<u>OLD</u>	<u>NEW</u>	
20.24.101	23.14.102	BOARD OF CRIME CONTROL FUNCTIONS
20.24.201	23.14.208	INCORPORATION OF MODEL RULES
20.24.202	23.14.209	MAINTENANCE OF POLICY AND PROCEDURE
		MANUAL FOR INTERNAL MANAGEMENT
20.24.203	23.14.210	APPLICATIONS FOR FINANCIAL ASSISTANCE
20.24.301	23.14.308	MATCHING RATIOS
20.24.302	23.14.309	MATCHING REQUIREMENTS
20.24.303	23.14.310	BUDGET REQUIREMENTS
20.24.304	23.14.311	GENERAL REQUIREMENTS
20.24.305	23.14.312	APPLICANTS AGREEMENT
20.24.306	23.14.313	NONSUPPLANTING REQUIREMENT
20.24.601	23.14.609	GENERAL DEFINITIONS
20.24.602	23.14.610	REGIONAL PLANNING BOARDS
20.24.603	23.14.611	REGIONAL PLAN
20.24.604	23.14.612	PLAN APPROVAL PROCESS
20.24.605	23.14.613	AMENDMENTS TO THE REGIONAL PLAN
20.24.606	23.14.614	REPORTS
20.24.607	23.14.615	REGIONAL DETENTION TASK FORCE
20.24.608	23.14.616	REIMBURSEMENTS TO COUNTIES FOR
		TRIBAL USE OF DETENTION SERVICES
20.24.1001	23.14.1010	DEFINITIONS
20.24.1002	23.14.1011	PURPOSE
20.24.1003	23.14.1012	APPEAL REVIEW COMMITTEE
20.24.1004	23.14.1013	RIGHT TO APPEAL
20.24.1005	23.14.1014	RECORD OF PROCEEDINGS

20.24.1006	23.14.1015	NOTICE OF REVIEW
20.24.1007	23.14.1016	COMMITTEE REVIEW PROCEDURE
20.24.1008	23.14.1017	RECOMMENDATION OF THE APPEAL REVIEW COMMITTEE
20.24.1009	23.14.1018	BOARD FINAL DECISION

4. Several of the above-stated rules refer to 44-4-301, MCA, which was renumbered 44-7-101, MCA, in 2017. Other rules refer to statutes that were renumbered in previous legislative sessions. The statutory renumbering and any other amendments deemed necessary by the Board of Crime Control will be addressed in future rulemaking.

/s/ DAVID ORTLEY
David Ortley
Deputy Attorney General
Rule Reviewer

/s/ AUSTIN KNUDSEN
Austin Knudsen
Attorney General
Department of Justice

Certified to the Secretary of State March 14, 2023.

BEFORE THE ALTERNATIVE HEALTH CARE BOARD, BOARD OF DENTISTRY,
BOARD OF FUNERAL SERVICE, BOARD OF HEARING AID DISPENSERS,
BOARD OF MASSAGE THERAPY, BOARD OF OCCUPATIONAL THERAPY
PRACTICE, BOARD OF OUTFITTERS, BOARD OF PHARMACY, BOARD OF
PLUMBERS, BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL
LAND SURVEYORS, BOARD OF PSYCHOLOGISTS, BOARD OF RADIOLOGIC
TECHNOLOGISTS, BOARD OF REAL ESTATE APPRAISERS, BOARD OF
SANITARIANS, BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND
AUDIOLOGISTS, AND BOARD OF VETERINARY MEDICINE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.111.101, 24.111.201,	)	TRANSFER AND AMENDMENT, AND
24.111.202, 24.138.101, 24.138.201,	)	ADOPTION
24.138.202, 24.147.101, 24.147.201,)	
24.147.202, 24.150.101, 24.150.201,)	
24.150.202, 24.155.202, 24.155.203,)	
24.165.101, 24.165.201, 24.165.202,)	
24.171.101, 24.171.201, 24.171.202,)	
24.174.101, 24.174.201, 24.174.202,)	
24.180.101, 24.180.201, 24.180.202,)	
24.183.101, 24.183.201, 24.183.202,)	
24.189.101, 24.189.201, 24.189.202,)	
24.204.101, 24.204.201, 24.204.202,)	
24.207.101, 24.207.201, 24.207.202,)	
24.216.101, 24.216.201, 24.216.202,)	
24.222.101, 24.222.201, 24.222.202,)	
24.225.101, 24.225.201, and)	
24.225.202, the transfer and)	
amendment of 24.155.201, and the)	
adoption of NEW RULE I, regarding)	
organizational, procedural, and public)	
participation rules)	

TO: All Concerned Persons

1. On December 23, 2022, the Department of Labor and Industry (department) published MAR Notice No. 24-101-398 regarding the public hearing on the proposed amendment, transfer and amendment, and adoption of the above-stated rules, at page 2331 of the 2022 Montana Administrative Register, Issue No. 24.

2. On January 13, 2023, a public hearing was held on the proposed amendment, transfer and amendment, and adoption of the above-stated rules via the videoconference and telephonic platform. Comments were received by the January 20, 2023, deadline.

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

COMMENT 1: Numerous commenters supported the Board of Outfitters' proposed rule changes.

RESPONSE 1: The board appreciates all comments received during the rulemaking process.

4. The boards have amended, amended and transferred, and adopted the following rules exactly as proposed:

Amended: ALTERNATIVE HEALTH CARE BOARD
 24.111.101
 24.111.201
 24.111.202
 ALTERNATIVE HEALTH CARE BOARD
 SHEEHAN EDNIE-ROSEN, DEM,
 PRESIDING OFFICER

Amended: BOARD OF DENTISTRY
 24.138.101
 24.138.201
 24.138.202
 BOARD OF DENTISTRY
 DIANE KLEMMAN, R.D.H., PRESIDENT

Amended: BOARD OF FUNERAL SERVICE
 24.147.101
 24.147.201
 24.147.202
 BOARD OF FUNERAL SERVICE
 JIM AXELSON, PRESIDING OFFICER

Amended: BOARD OF HEARING AID DISPENSERS
 24.150.101
 24.150.201
 24.150.202
 BOARD OF HEARING AID DISPENSERS
 MICHAEL SPINTI, PRESIDING OFFICER

Amended and transferred: from 24.155.201 to 24.155.101
Amended: 24.155.202
 24.155.203
 BOARD OF MASSAGE THERAPY
 PEG HOLWICK, CHAIR

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Amended: 24.165.101
24.165.201
24.165.202

BOARD OF OCCUPATIONAL THERAPY
PRACTICE
TWYLLA KIRCHEN, OT, PRESIDING OFFICER

BOARD OF OUTFITTERS

Amended: 24.171.101
24.171.201
24.171.202

Adopted: NEW RULE I (ARM 24.171.104)
BOARD OF OUTFITTERS
JOHN WAY, CHAIR

BOARD OF PHARMACY

Amended: 24.174.101
24.174.201
24.174.202

BOARD OF PHARMACY
TONY KING, PHARMACIST, PRESIDENT

BOARD OF PLUMBERS

Amended: 24.180.101
24.180.201
24.180.202

BOARD OF PLUMBERS
JEFF GRUIZENG, PRESIDING OFFICER

BOARD OF PROFESSIONAL ENGINEERS AND
PROFESSIONAL LAND SURVEYORS

Amended: 24.183.101
24.183.201
24.183.202

BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND
SURVEYORS
RON DRAKE, PRESIDING OFFICER

BOARD OF PSYCHOLOGISTS

Amended: 24.189.101
24.189.201
24.189.202

BOARD OF PSYCHOLOGISTS
LORETTA BOLYARD, Ph.D.,
PRESIDING OFFICER

BOARD OF RADIOLOGIC TECHNOLOGISTS

Amended: 24.204.101
24.204.201
24.204.202

BOARD OF RADIOLOGIC
TECHNOLOGISTS
MIKE NIELSEN, RPA,
PRESIDING OFFICER

BOARD OF REAL ESTATE APPRAISERS

Amended: 24.207.101
24.207.201
24.207.202

BOARD OF REAL ESTATE APPRAISERS
GREGORY THORNQUIST,
PRESIDING OFFICER

BOARD OF SANITARIANS

Amended: 24.216.101
24.216.201
24.216.202

BOARD OF SANITARIANS
MEGAN BULLOCK, RS,
PRESIDING OFFICER

BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Amended: 24.222.101
24.222.201
24.222.202

BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS
HILLARY CARTER, AuD
PRESIDING OFFICER

BOARD OF VETERINARY MEDICINE

Amended: 24.225.101
24.225.201
24.225.202

BOARD OF VETERINARY MEDICINE
TIA NELSON, DVM, PRESIDENT

/s/ DARCEE L. MOE

Darcee L. Moe
Rule Reviewer

/s/ LAURIE ESAU

Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 14, 2023.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.8.1802 pertaining to the)
Montana tumor registry)

TO: All Concerned Persons

1. On January 27, 2023, the Department of Public Health and Human Services published MAR Notice No. 37-1013 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 76 of the 2023 Montana Administrative Register, Issue Number 2.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.

/s/ ROBERT LISHMAN
Robert Lishman
Rule Reviewer

/s/ CHARLES T. BRERETON
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State March 14, 2023.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.12.301, 37.12.316,)
37.12.320, 37.12.338, 37.12.345, and)
37.12.346 pertaining to laboratories)
that conduct analyses of public water)
supplies)

TO: All Concerned Persons

1. On January 27, 2023, the Department of Public Health and Human Services published MAR Notice No. 37-1015 pertaining to the proposed amendment of the above-stated rules at page 79 of the 2023 Montana Administrative Register, Issue Number 2.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ ROBERT LISHMAN
Robert Lishman
Rule Reviewer

/s/ CHARLES T. BRERETON
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State March 14, 2023.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEES

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee

- Department of Agriculture
- Department of Commerce
- Department of Labor and Industry
- Department of Livestock
- Office of the State Auditor (Commissioner of Securities and Insurance)
- Office of Economic Development
- Division of Banking and Financial Institutions
- Alcoholic Beverage Control Division
- Cannabis Control Division

Education Interim Committee

- State Board of Education
- Board of Public Education
- Board of Regents of Higher Education
- Office of Public Instruction
- Montana Historical Society
- Montana State Library

Children, Families, Health, and Human Services Interim Committee

- Department of Public Health and Human Services

Law and Justice Interim Committee

- Department of Corrections
- Department of Justice

Energy and Telecommunications Interim Committee

- Department of Public Service Regulation

Revenue Interim Committee

- Department of Revenue
- Montana Tax Appeal Board

State Administration and Veterans' Affairs Interim Committee

- Department of Administration
- Montana Public Employee Retirement Administration
- Board of Investments
- Department of Military Affairs
- Office of the Secretary of State
- Office of the Commissioner of Political Practices

Transportation Interim Committee

- Department of Transportation
- Motor Vehicle Division (Department of Justice)

Environmental Quality Council

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

Water Policy Interim Committee (where the primary concern is the quality or quantity of water)

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known
Subject

1. Consult ARM Topical Index.
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2022. This table includes notices in which those rules adopted during the period October 7, 2022, through March 10, 2023, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2022, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2022 or 2023 Montana Administrative Register.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

ADMINISTRATION, Department of, Title 2

(Public Employees' Retirement Board)

2-43-633 Actuarial Rates and Assumptions, p. 1, 177

2-43-634 Amendment by Reference of the State of Montana Public Employee Deferred Compensation (457) Plan Document and Trust Agreement, p. 165

AGRICULTURE, Department of, Title 4

4-22-276 Wheat and Barley Assessment and Refunds, p. 1786, 11

STATE AUDITOR, Office of, Title 6

COMMERCE, Department of, Title 8

8-111-200 Public Participation - Incorporation of Model Rules - Meetings of the Board - Definitions, p. 200

(Board of Investments)

8-97-101 Board of Investments Rules, p. 1212, 12

EDUCATION, Title 10

(Board of Public Education)

10-55-290 Standards of Accreditation, p. 1966

10-58-272 Professional Educator Preparation Program Standards, p. 1376, 86

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-592 Public Access Land Agreements, p. 2230, 4, 211

12-593 Closing the Valley Garden Fishing Access Site on the Madison River in Madison County, p. 2364

12-594 Closing the Ennis Fishing Access Site on the Madison River in Madison County, p. 13

12-595 Closing the York's Islands Fishing Access Site on the Missouri River in Broadwater County, p. 15

(Fish and Wildlife Commission)

12-560 Classification of Caracal Cat as a Prohibited Species, p. 950, 2189

12-591 Classification of Caracal Cat as a Controlled Species, p. 2064, 210

ENVIRONMENTAL QUALITY, Department of, Title 17

17-421 Review of Storm Water Designs- Individual and Shared Onsite Wastewater Systems - Well Locations, p. 2278

17-425 Opencut Mining Program, p. 1152, 2009

17-427 Temporary Water Quality Standards Variances, p. 1171, 2018

TRANSPORTATION, Department of, Title 18

CORRECTIONS, Department of, Title 20

JUSTICE, Department of, Title 23

23-3-268 Alcohol Analysis, p. 206

23-4-267 Drug and/or Alcohol Analysis, p. 168

23-12-266 Fire Safety, Fireworks - International Fire Code - Additional Definitions, p. 57, 212

(Public Safety Officers Standards and Training Council)

23-13-269 Certification of Public Safety Officers, p. 174

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order by chapter following the department notices.

24-17-397 Prevailing Wages, p. 2006, 17

24-22-401 Workforce Innovation and Opportunity Act Montana State Plan Youth ITA Waiver Request, p. 154

- 24-22-402 Workforce Innovation and Opportunity Act Montana State Plan OSY Waiver Request, p. 155
24-101-398 Organizational, Procedural, and Public Participation Rules, p. 2331

(Board of Outfitters)

- 24-171-42 Board of Outfitters, p. 2345, 71

LIVESTOCK, Department of, Title 32

- 32-22-333 Time From Processing That Fluid Milk May Be Sold for Public Consumption, p. 145
32-22-337 Brands and Earmarks, p. 147

(Board of Milk Control)

- 32-23-334 Milk Control Assessments, p. 73, 213

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- 37-970 Healthy Montana Kids Evidence of Coverage, p. 2235, 178
37-982 Public Swimming Pools, p. 2239, 179
37-994 Immunization Requirements and Exemptions for Children and Staff at Child Care Facilities, p. 1495, 2190
37-998 Marijuana Sampling Protocols, p. 2243
37-1010 State Approval of Substance Use Disorder Programs – Licensure of Substance Use Disorder Facilities – Behavioral Health and Development Disability Medicaid & Non-Medicaid Manuals, p. 1539, 1889, 2025, 2040
37-1013 Montana Tumor Registry, p. 76
37-1015 Laboratories That Conduct Analyses of Public Water Supplies, p. 79
37-1016 Premarital Blood Testing, p. 2256, 180
37-1018 Updating Medicaid and Non-Medicaid Provider Rates, Fee Schedules, and Effective Dates, p. 2202, 84, 181
37-1020 Licensure of Day Care Facilities, p. 2066
37-1024 Medicaid Coverage of Abortion Services, p. 2353

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38-2-255 Interventions, p. 1185, 2266
38-2-258 Interventions, p. 2259, 150
38-5-256 Resource Planning, p. 1229, 2159, 21
38-5-260 Construction of Utility Lines and Facilities, p. 152

REVENUE, Department of, Title 42

- 42-1060 Waste Management Process Revision, p. 1648, 1945, 2027
- 42-1061 Montana Education Savings Plans (529 Plans), p. 1650, 1948
- 42-1062 Updates of the Montana Reappraisal Plan and Classification and Valuation Manuals, p. 2174, 43
- 42-1063 Agricultural Commodity Prices and Values, p. 2179, 2366
- 42-1064 Revisions to Railroad Income Apportionment Factors, p. 2182, 45
- 42-1065 2023 Personal Property Depreciation Schedules and Trend Tables, p. 2186, 2368

SECRETARY OF STATE, Office of, Title 44

- 44-2-264 Business Services Annual Report Filing Fee Waiver in 2024, p. 9
- (Office of the Commissioner of Political Practices)
- 44-2-263 Payment Threshold–Inflation Adjustment for Lobbyists, p. 2264, 185

EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in February 2023 appear. Potential vacancies from April 1, 2023 through April 30, 2023, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of March 1, 2023.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR FEBRUARY 2023

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Public Education			
Mr. Ron Slinger	Governor	Tammy Lacey	2/1/2023
Miles City			2/1/2030
Qualifications (if required): District 2 Rep			
Community Service Commission			
Ms. Ronalee Skees	Governor	Karin Olsen-Billings	2/20/2023
Billings			7/1/2025
Qualifications (if required):			

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2023 THROUGH APRIL 30, 2023

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Architects and Landscape Architects		
Mr. Bayliss Ward, Bozeman Qualifications (if required): Licensed architect	Governor	4/1/2023
Mr. Dale E. Nelson, Great Falls Qualifications (if required): Licensed architect	Governor	4/1/2023
Board of Clinical Laboratory Science Practitioners		
Ms. Erin Kujawa Foley, Butte Qualifications (if required): Public member	Governor	4/1/2023
Mr. Steven George Matthes, Helena Qualifications (if required): Clinical laboratory science practitioner	Governor	4/1/2023
Mr. William J. Peterman, Hardin Qualifications (if required): Holds an active license in Montana	Governor	4/1/2023
Mr. Matthew Kalanick, Great Falls Qualifications (if required): Clinical laboratory science practitioner	Governor	4/1/2023
Board of Dentistry		
Dr. Aimee R. Ameline, Great Falls Qualifications (if required): Licensed Dentist	Governor	4/1/2023

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2023 THROUGH APRIL 30, 2023

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Hail Insurance		
Mr. Vince Mattson, Helena	Governor	4/30/2023
Qualifications (if required): Public member		
Board of Optometry		
Mr. Peter Fontana, Great Falls	Governor	4/1/2023
Qualifications (if required): Representative of the public not engaged in the practice of optometry		
Dr. Douglas Jerome Kimball, Bozeman	Governor	4/1/2023
Qualifications (if required): Registered Optometrist		
Public Employees' Retirement Board		
Mrs. Sheena Wilson, Helena	Governor	4/1/2023
Qualifications (if required): Retired public employee, member of the system		
Commissioner Robyn Driscoll, Billings	Governor	4/1/2023
Qualifications (if required): Member At-Large		

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CHRISTI JACOBSEN
SECRETARY OF STATE

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