



AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR A STRATEGIC PLANNING PROCESS FOR CERTAIN GOVERNMENTAL ENTITIES; REQUIRING DEPARTMENTS TO PRODUCE STRATEGIC PLANS AND ANNUAL PERFORMANCE REPORTS; PROVIDING FOR CERTAIN PUBLIC COMMENT PROVISIONS; LIMITING JUDICIAL REVIEW; REQUIRING THAT ONLY EXISTING RESOURCES MAY BE USED; PROVIDING DEFINITIONS; AMENDING SECTION 2-4-102, MCA; REPEALING SECTIONS 2-15-2221, 2-15-2222, 2-15-2223, 2-15-2224, 2-15-2225, AND 2-15-2226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 7] may be cited as the "State Measurement for Accountable, Responsive, and Transparent Government Act".

Section 2. Declaration of policy and purpose. (1) It is the public policy of this state that:

- (a) the development of a strategic plan with performance measures allows policymakers, stakeholders, and the public to understand what a department intends to accomplish, and creates a basis to evaluate whether each department has achieved its strategic plan;
- (b) performance measures should be designed so that they provide meaningful and useful information that evaluates performance and assesses progress in achieving goals and objectives;
- (c) performance measures should be integrated into the planning process and maintained on an ongoing basis;
- (d) by establishing and evaluating performance measures, the state can improve program coordination, better understand resource needs, determine whether programs are operating efficiently, eliminate duplicate programs or activities, and provide superior information to the governor, the legislature, and

the public.

(2) It is the purpose of [sections 1 through 7] to provide for a strategic planning process for state government that results in the development of performance measures to facilitate efficient, transparent, accountable, and responsive government services with annual performance reports to optimize the performance of state government.

Section 3. Definitions. As used in [sections 1 through 7], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Annual performance report" means a written annual review and assessment of the outputs and outcomes of a department as compared to its established strategic plan and performance measures.

(2) "Department" means each entity listed in 2-15-104(1)(a) through (1)(p).

(3) "Goal" means a specific, quantifiable goal or target related to a performance measure that is adopted by a department.

(4) "Mission and vision statement" means a written statement describing a department's purpose, what it intends to do, and whom it intends to serve.

(5) "Performance measure" means a written or electronic monitoring tool that is designed to assess what a department aspires to achieve pursuant to a published strategic plan and is intended to help guide government and make it accountable. Where feasible, performance measures must be quantitative. Performance measures are intended to focus on a department's efforts in implementing legislative intent, prioritizing goals and objectives, and allocating resources.

(6) "Strategic plan" means a written plan prepared by a department that contains the mission and vision statement, goals, and objectives that a department intends to accomplish, that is used to guide the ongoing and proposed activities of a department with performance measures for tracking success in meeting goals and objectives, that is revised regularly, and that remains in effect until replaced or revised.

Section 4. Strategic plan. (1) Each department shall engage in the process of strategic planning and shall produce a strategic plan.

(2) No later than October 1, 2021, each department shall adopt a strategic plan. Each department

shall publish a subsequent strategic plan no later than July 1, 2024, and shall publish a revised plan no later than July 1 every 3 years thereafter.

(3) At a minimum, a department's strategic plan must include the following components:

(a) a mission and vision statement;

(b) a description of the functions and programs of the department, including a discussion of the department's priorities;

(c) goals of the department that reflect the benefits and outcomes the department expects to achieve on behalf of the public or specific groups;

(d) specific and measurable performance measures.

(4) A department's strategic plan, including associated performance measures, may be adopted only after consideration of input from the employees of the department and public comment.

(5) Before adopting a new or subsequent strategic plan, a department shall:

(a) prior to the beginning of the public notice period, give written public notice of the proposed strategic plan by:

(i) providing prominent notice of the proposed plan and any associated hearings on its website; and

(ii) publishing notice in the Montana Administrative Register of the proposed strategic plan, any associated hearings, and the dates during which public comment will be accepted;

(b) hold at least one public hearing on the proposed strategic plan;

(c) accept public comment for at least 30 days; and

(d) consider written and oral comments made during the public comment period and post transcripts of public hearings and written comments on the proposed strategic plan on its website.

(6) The strategic plan adopted by a department must be posted on the websites of the department and the office of budget and program planning.

Section 5. Annual performance report. (1) No later than October 1, 2022, and no later than October 1 of each year thereafter, each department shall produce an annual performance report for the previous fiscal year and distribute it as provided in subsections (3) and (4).

(2) The annual performance report must focus on measuring outcomes rather than process.

Therefore, a department shall identify the preferred outcomes with respect to each performance measure for each department program.

(3) An annual performance report of a department must be posted on the websites of the department and the office of budget and program planning. The annual performance report must include a hyperlink to the department's strategic plan posted on the department's official website.

(4) By October 1 of each year, in accordance with 5-11-210, the annual performance report of each department must be provided to the legislative finance committee and the appropriate legislative policy interim committee provided for in Title 5, chapter 5, part 2.

Section 6. Periodic assessment and revision of performance measures. Performance measures must be revised no less frequently than every 3 years. In the annual performance report, a department shall assess whether existing performance measures continue to relate logically to goals and other elements of the strategic plan and to measure preferred outcomes for department programs.

Section 7. Judicial review. A department's consideration of input from state employees and public comment in developing or revising a strategic plan is not subject to judicial review.

Section 8. Section 2-4-102, MCA, is amended to read:

"2-4-102. Definitions. For purposes of this chapter, the following definitions apply:

(1) "Administrative rule review committee" or "committee" means the appropriate committee assigned subject matter jurisdiction in Title 5, chapter 5, part 2.

(2) (a) "Agency" means an agency, as defined in 2-3-102, of state government, except that the provisions of this chapter do not apply to the following:

(i) the state board of pardons and parole, which is exempt from the contested case and judicial review of contested cases provisions contained in this chapter. However, the board is subject to the remainder of the provisions of this chapter.

(ii) the supervision and administration of a penal institution with regard to the institutional supervision, custody, control, care, or treatment of youth or prisoners;

- (iii) the board of regents and the Montana university system;
 - (iv) the financing, construction, and maintenance of public works;
 - (v) the public service commission when conducting arbitration proceedings pursuant to 47 U.S.C. 252 and 69-3-837.
- (b) The term does not include a school district, a unit of local government, or any other political subdivision of the state.
- (3) "ARM" means the Administrative Rules of Montana.
- (4) "Contested case" means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.
- (5) (a) "Interested person" means a person who has expressed to the agency an interest concerning agency actions under this chapter and has requested to be placed on the agency's list of interested persons as to matters of which the person desires to be given notice.
- (b) The term does not extend to contested cases.
- (6) "License" includes the whole or part of an agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.
- (7) "Licensing" includes an agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.
- (8) "Party" means a person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but this chapter may not be construed to prevent an agency from admitting any person as a party for limited purposes.
- (9) "Person" means an individual, partnership, corporation, association, governmental subdivision, agency, or public organization of any character.
- (10) "Register" means the Montana Administrative Register.
- (11) (a) "Rule" means each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule.
- (b) The term does not include:

(i) statements concerning only the internal management of an agency or state government and not affecting private rights or procedures available to the public, including rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resource system;

(ii) formal opinions of the attorney general and declaratory rulings issued pursuant to 2-4-501;

(iii) rules relating to the use of public works, facilities, streets, and highways when the substance of the rules is indicated to the public by means of signs or signals;

(iv) seasonal rules adopted annually or biennially relating to hunting, fishing, and trapping when there is a statutory requirement for the publication of the rules and rules adopted annually or biennially relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of the rules is indicated to the public by means of signs or signals;

(v) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the ARM; ~~or~~

(vi) game parameters approved by the state lottery commission relating to a specific lottery game. This subsection (11)(b)(vi) does not exempt generally applicable policies governing the state lottery that are otherwise subject to the Montana Administrative Procedure Act; or

(vii) strategic planning documents governed by [sections 1 through 7] and published as provided in [sections 1 through 7].

(12) (a) "Significant interest to the public" means agency actions under this chapter regarding matters that the agency knows to be of widespread citizen interest. These matters include issues involving a substantial fiscal impact to or controversy involving a particular class or group of individuals.

(b) The term does not extend to contested cases.

(13) "Small business" means a business entity, including its affiliates, that is independently owned and operated and that employs fewer than 50 full-time employees.

(14) "Substantive rules" are either:

(a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid;

or

(b) adjective or interpretive rules, which may be adopted in accordance with this chapter and under express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law.

(15) "Supplemental notice" means a notice that amends the proposed rules or changes the timeline for public participation."

Section 9. Fiscal impact. A department may use only existing resources to implement the provisions of [this act].

Section 10. Repealer. The following sections of the Montana Code Annotated are repealed:

- 2-15-2221. Definitions.
- 2-15-2222. Policy -- performance measures.
- 2-15-2223. Criteria for measurement system.
- 2-15-2224. System requirements -- input from legislative audit division.
- 2-15-2225. Legislative use of performance measures.
- 2-15-2226. Department and agency use of performance measures.

Section 11. Codification instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 2, and the provisions of Title 2 apply to [sections 1 through 7].

Section 12. Coordination instruction. If both Senate Bill No. 57 and [this act] are passed and approved, then [section 1(3)(c)(i) of Senate Bill No. 57] concerning performance data from the department of public health and human services must be deleted.

Section 13. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 277, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 277

INTRODUCED BY B. MERCER, M. BERTOGLIO, G. CUSTER, J. DOOLING, W. MCKAMEY, L. REKSTEN, D.
BARTEL, D. BEDEY, J. GILLETTE, L. JONES, T. MOORE, M. REGIER, B. USHER, S. VINTON

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