BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of
ARM 2.4.401, 2.4.402, 2.4.403,
2.4.404, 2.4.405, 2.4.406, 2.4.409,
2.4.410, and 2.4.411 pertaining to
accounting and financial reporting
standards, report filing fees, filing
penalties, waivers and extensions of
penalties, audit and audit reporting
standards, the roster of independent
auditors, resolution and corrections of
audit findings, financial reviews, and
incorporation by reference of various
standards, accounting policies, and
federal laws and regulations and the
repeal of ARM 2.4.408 pertaining to
audit contracts

AMENDED NOTICE OF PUBLIC
HEARING ON PROPOSED
AMENDMENT AND REPEAL AND
EXTENSION OF COMMENT
PERIOD

TO: All Concerned Persons

1. On June 21, 2019, the Department of Administration published MAR
Notice No. 2-4-581 pertaining to the public hearing on the proposed amendment and
repeal of the above-stated rules at page 761 of the 2019 Montana Administrative
Register, Issue Number 12. The Department of Administration inadvertently failed to
make required sponsor notifications when beginning work on the rule amendments
(2-4-302(2), MCA). The department has subsequently made the required sponsor
notifications, and is extending the comment period in this notice. The department is
also proposing additional amendments to ARM 2.4.402, 2.4.403, 2.4.404, 2.4.410,
and 2.4.411.

2. The Department of Administration 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 Administration no later than 5:00 p.m. on
August 1, 2019, to advise us of the nature of the accommodation that you need.
Please contact Cody Pearce, Department of Administration, Statewide Accounting
Bureau, P.O. Box 200102, Helena, MT 59620; telephone (406) 444-3092; fax (406)
444-9144; TDD (406) 444-1421; Montana Relay Service 711; or e-mail
LGSPortalRegistration@mt.gov.

3. The department proposes to amend the following rules with the following
changes from the original proposal, new matter underlined, deleted matter interlined:

2.4.402 REPORT FILING FEE (1) through (1)(b)(iii) remain as proposed.

MAR Notice No. 2-4-581 14-7/26/19
(iv) When applicable, revenues do not include receipts or inflows of resources presented in the following types of financial statements:
   (A) governmentwide;
   (B) investment trust funds;
   (C) custodial funds financial statements.

(2) For school districts and associated cooperatives:
   (a) revenues are based on the recognition criteria of the financial reporting framework presented in the annual financial report required by 20-9-213, MCA the Superintendent of Public Instruction;
   (b) through (3) remain as proposed.

STATEMENT OF REASONABLE NECESSITY: The department proposes to amend (1)(b)(iv) because listing the types of financial statements individually will assist the reader in clearly understanding that there are three distinct types to which the revenue exclusion applies. The department proposes to amend (2)(a) to remove the statutory reference because the statute does not refer to a "financial report." The Superintendent of Public Instruction, however, prescribes by administrative rule that school districts submit an annual financial report.

2.4.403 PENALTIES FOR FAILING TO FILE REPORTS WITHIN PRESCRIBED TIME

(1) through (1)(b) remain as proposed.

(2) In addition to Rather than imposing the late submission penalty established in (1), the department may issue an order to withhold payment of any state financial assistance to the local government entity. The department shall notify state agencies of the order.
   (a) Upon receipt of the required report and all late submission penalties, the department shall release any financial assistance withheld pursuant to the department's order to the local government entity.
   (3) remains as proposed.

STATEMENT OF REASONABLE NECESSITY: In the original proposal, (2) and (2)(a) were added to mirror the language in ARM 2.4.404(2) and (3). Upon further review of 2-7-517(1), MCA, the department noted that rather than a stop payment and late submission penalty, the statute allows either, but not both. The department proposes amendment to (2) and (2)(a) to clearly state that withholding financial assistance from a local government is an option to the monthly penalty for late submission of the annual financial report. Although this closely follows statutory language, the department believes including it in rule makes it easier for stakeholders to understand and reference without having to refer to the statute.

2.4.404 PENALTY FOR FAILING TO PAY FILING FEE WITHIN 60 DAYS OF DUE DATE

(1) and (1)(a) remain as proposed.

(2) In addition to Rather than imposing the late payment penalty established in (1), the department may issue an order to withhold payment of any state financial assistance to the local government entity.
(3) Upon receipt of the required filing fee and all late payment penalties, the department shall notify each state agency that any financial assistance withheld pursuant to the department's order has been released to the local government entity.

STATEMENT OF REASONABLE NECESSITY: In the original proposal, existing (3) uses the phrase "In addition to" when referring to imposing a late payment. And in existing (4) "plus the late payment" is used. This text has been in rule since the rule was originally written. Upon further review of 2-7-517(1), MCA, the department noted that rather than a stop payment and late payment penalty, the statute allows either, but not both. The department proposes amendment to (2) and (3) to clearly state that withholding financial assistance from a local government is an option to the monthly penalty for late payment of the filing fee. Although this closely follows statutory language, the department believes including it in rule makes it easier for stakeholders to understand and reference without having to refer to the statute.

2.4.410 REVIEW OF FINANCIAL REVIEWS STATEMENTS (1) through (8) remain as proposed.

STATEMENT OF REASONABLE NECESSITY: The department proposes to amend the catchphrase to more accurately state the rule content. Without this amendment, there may be confusion as to the rule's purpose.

2.4.411 INCORPORATION BY REFERENCE OF VARIOUS STANDARDS, ACCOUNTING POLICIES, AND FEDERAL LAWS AND REGULATIONS

(1) through (1)(b) remain as proposed.

(2) The department adopts and incorporates by reference the Small Government Financial Reporting Framework established by the department as of June 30, 2019, as provided by ARM 2.4.401, available at https://sfsd.mt.gov/LGSB.

(a) The framework defines an alternative basis of accounting to generally accepted accounting principles for small governments to use for financial reporting and auditing purposes. This alternative basis of accounting excludes some of the more complex accounting calculations and disclosures required by generally accepted accounting principles as immaterial for a small government.

(3) The department adopts and incorporates by reference the Government Auditing Standards, 2011 and 2018 revisions, established by the Comptroller General of the United States, as provided by ARM 2.4.406.

(a) Government Auditing Standards incorporated by reference in (3) contain standards to be followed by an independent auditor in conducting financial audits of local government entities, including general standards, field work standards, and reporting standards.

(a) The Federal Single Audit Act of 1984, as amended by the Single Audit Act Amendments of 1996 and the Title 2 CFR Part 200 (Uniform Guidance), provide audit requirements for ensuring that federal funds are expended properly and are used in compliance with federal requirements.

(a) and (b) remain as proposed, but are renumbered (b) and (c).

(5) The department adopts and incorporates by reference the standards established by the American Institute of Certified Public Accountants for agreed-upon procedures engagements, updated through June 30, 2019, as provided by ARM 2.4.410, available at https://www.aicpa.org/.

(a) These standards contain:

(i) conditions for engagement performance;
(ii) the subject matter and related assertions;
(iii) the nature, timing, and extent of procedures;
(iv) the presentation of the results of applying agreed-upon procedures to specific subject matter in the form of findings;
(v) reporting requirements; and
(vi) written representations.

STATEMENT OF REASONABLE NECESSITY: The department proposes addition of (2)(a), (3)(a), (4)(a), and (5)(a) to provide descriptions of the subject matter in the materials adopted by reference as required by statute. These descriptions were inadvertently removed or not added in the original proposal notice.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action to Cody Pearce, Department of Administration, Statewide Accounting Bureau, P.O. Box 200102, Helena, MT 59620; telephone (406) 444-3092; fax (406) 444-9144; Montana Relay Service 711; or e-mail LGSPortalRegistration@mt.gov, and must be received no later than 5:00 p.m., August 9, 2019.

5. An electronic copy of this proposal notice is available through the department's website at http://doa.mt.gov/administrativerules. The department strives to make its online version of the notice conform to the official published version but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

6. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of L. 2019 SB 2, Senator Margaret MacDonald, was contacted on May 22, 2019, by email and U.S. mail. The primary bill sponsor of L. 2019 SB 302, Senator John Esp, was contacted on July 15, 2019, by email and U.S. mail. The primary bill sponsor of L. 2019 SB 439, Senator Eric Moore, was contacted on July 15, 2019, by email and U.S. mail. The primary bill sponsor of L. 2017 HB 162, Representative Adam Hertz, was contacted on July 15,
2019, by email and U.S. mail. The primary bill sponsor of L. 2015 HB 44, Representative Tom Berry, was contacted on July 15, 2019, by email and U.S. mail.

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

Certified to the Secretary of State July 16, 2019.