

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	AMENDED NOTICE OF PUBLIC
ARM 2.4.401, 2.4.402, 2.4.403,	)	HEARING ON PROPOSED
2.4.404, 2.4.405, 2.4.406, 2.4.409,	)	AMENDMENT AND REPEAL AND
2.4.410, and 2.4.411 pertaining to	)	EXTENSION OF COMMENT
accounting and financial reporting	)	PERIOD
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	)	

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.

(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; or
- (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.

(4) The department adopts and incorporates by reference the Federal Single Audit Act of 1984 as amended by the Single Audit Act Amendments of 1996 (P.L. 104-156) and Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), as published in the Federal Register, Volume 78, No. 248, as provided by ARM 2.4.405.

(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](mailto: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  
John Lewis, Director  
Department of Administration

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

Certified to the Secretary of State July 16, 2019.