

1 HOUSE BILL NO. 497

2 INTRODUCED BY B. MERCER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LEGISLATIVE INTERIM ACTIVITIES;
5 ESTABLISHING INTERIM BUDGET COMMITTEES; PROVIDING FOR THE MEMBERSHIP OF INTERIM
6 BUDGET COMMITTEES; PROVIDING FOR THE APPOINTMENT, STAFFING, COMPENSATION, AND
7 DUTIES OF INTERIM BUDGET COMMITTEES; ASSIGNING INTERIM BUDGET COMMITTEES TO THE
8 LEGISLATIVE FISCAL DIVISION; AMENDING SECTIONS 5-2-205, 5-2-302, 5-12-205, 5-12-302, 17-7-138,
9 AND 17-7-139, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. Interim budget committees.** (1) During an interim when the legislature
14 is not in session, the committees listed in subsection (2) are the interim budget committees of the legislature.
15 They are empowered to sit as committees and may act in their respective areas of responsibility.

16 (2) The following are the interim budget committees of the legislature:

17 (a) general government budget committee to oversee the budget activities of the department of
18 administration, department of military affairs, department of commerce, state auditor's office, governor's office,
19 secretary of state, commissioner of political practices, department of revenue, department of labor and industry,
20 legislative branch, and consumer counsel;

21 (b) health and human services budget committee to oversee the budget activities of the department of
22 public health and human services;

23 (c) natural resources and transportation budget committee to oversee the budget activities of the
24 department of livestock, department of environmental quality, department of agriculture, department of natural
25 resources and conservation, department of transportation, and department of fish, wildlife, and parks;

26 (d) judicial branch, law enforcement, and justice budget committee to oversee the budget activities of
27 the judicial branch, department of justice, public service regulation, office of state public defender, and
28 department of corrections; and

1 (e) education budget committee to oversee budget activities related to the Montana arts council,
 2 Montana historical society, board of public education, office of public instruction, school for the deaf and blind,
 3 Montana state library, and commissioner of higher education.

4 (3) An interim budget committee may refer an issue to an interim committee provided for in 5-5-202
 5 that the referring committee determines to be more appropriate for the consideration of the issue.

6 (4) If there is a dispute between interim committees and an interim budget committee as to which
 7 committee has proper jurisdiction over a subject, the legislative council and legislative finance committee shall
 8 consult and determine the most appropriate committee and assign the subject to that committee.

9

10 **NEW SECTION. Section 2. Appointment and composition of interim budget committees --**
 11 **compensation.** (1) Appointments to interim budget committees must be made by the time of adjournment of
 12 the legislative session.

13 (2) A legislator may not serve on more than two interim committees or interim budget committees
 14 unless no other legislator is available or is willing to serve.

15 (3) The composition of each interim budget committee must be as follows:

16 (a) the full membership of the joint budget subcommittee that considers agency budgets consistent
 17 with the agency oversight established in [section 1] during each legislative session; and

18 (b) subject to subsection (4), two additional members, one from the house of representatives,
 19 selected by the speaker of the house of representatives in consultation with the minority leader, and one from
 20 the senate, selected by the senate committee on committees.

21 (4) The appointing authority shall attempt to select the two members from the standing committees
 22 that consider issues within the jurisdiction of the interim budget committees established in [section 1].

23 (5) Members of the committees are entitled to receive compensation and expenses as provided in 5-
 24 2-302.

25

26 **NEW SECTION. Section 3. Officers of interim budget committees -- vacancies.** (1) The presiding
 27 officer and vice presiding officers of the interim budget committee shall be the presiding officer and vice
 28 presiding officers of the joint budget subcommittee that consider agency budgets consistent with the agency

1 oversight established in [section 1] during the legislative session.

2 (2) If a vacancy occurs on the interim budget committee when the legislature is not in session, a
3 member of the same political party must be appointed by the speaker of the house of representatives, if the
4 member being replaced is a representative, or by the president of the senate, if the member being replaced is a
5 senator. If the member being replaced represents the minority party, the replacement must be made in
6 consultation with the appropriate minority leader.

7

8 **NEW SECTION. Section 4. Duties of interim budget committees.** (1) Each interim budget
9 committee shall:

10 (a) oversee the expenditures included in the budget for the agencies overseen by the interim budget
11 committees established in [section 1];

12 (b) review implementation of new programs by the agencies overseen by the interim budget
13 committees established in [section 1] that were approved by the legislature immediately preceding the interim;
14 and

15 (c) review programs discussed in the respective subcommittee during the legislative session.

16 (2) Each interim budget committee shall meet quarterly.

17 (3) The legislative fiscal division shall:

18 (a) provide staff assistance to the interim budget committees; and

19 (b) keep accurate records of the activities and proceedings of each interim budget committee.

20

21 **Section 5.** Section 5-2-205, MCA, is amended to read:

22 **"5-2-205. Authority for standing committees to meet during interim.** (1) Except as provided in 5-
23 2-202, [sections 1 through 4], and subsection (2) of this section, a standing committee of the legislature, as
24 provided for in legislative rules, may not meet during the interim between regular legislative sessions.

25 (2) Upon approval of the president of the senate or the speaker of the house of representatives, a
26 standing committee may meet before a special session, as provided in 5-3-101, or during a special session."

27

28 **Section 6.** Section 5-2-302, MCA, is amended to read:

1 **"5-2-302. Compensation and expenses when legislature not in session.** When the legislature is
2 not in session, a member of the legislature, while engaged in legislative business with prior authorization of the
3 appropriate funding authority, is entitled to:

4 (1) a mileage allowance as provided in 2-18-503;

5 (2) expenses as provided in 2-18-501 and 2-18-502; and

6 (3) a salary equal to one full day's pay at the rate described in 5-2-301(1) for each 24-hour period of
7 time (from midnight to midnight), or portion of a 24-hour period, spent on authorized interim, interim budget, or
8 administrative committee legislative business or as otherwise provided by law. However, if time spent for
9 business other than authorized legislative interim, interim budget, or administrative committee business or
10 business related to 5-11-305 results in lengthening a legislator's stay away from home into an additional 24-
11 hour period, the legislator may not be compensated for the additional day."

12

13 **Section 7.** Section 5-12-205, MCA, is amended to read:

14 **"5-12-205. Powers and duties of committee.** The committee:

15 (1) may organize, adopt rules to govern its proceedings, form subcommittees, and meet as often as
16 necessary, upon the call of the presiding officer, to advise and consult with the legislative fiscal analyst;

17 (2) may employ and, in accordance with the rules for classification and pay adopted by the legislative
18 council, set the salary of the legislative fiscal analyst. The legislative fiscal analyst shall serve at the pleasure of
19 and be responsible for providing services to the committee.

20 (3) may exercise the investigatory powers of a standing committee under chapter 5, part 1, of this
21 title;

22 (4) shall monitor the information technology policies of the department of administration with specific
23 attention to:

24 (a) identification of information technology issues likely to require future legislative attention; and

25 (b) the evaluation of proposed information technology policy changes and the fiscal implications of the
26 proposed changes and shall provide written responses to the department of administration communicating the
27 committee's positions and concerns on proposed policy changes;

28 (5) may accumulate, compile, analyze, and provide information relevant to existing or proposed

1 legislation on how information technology can be used to impact the welfare of the state;

2 (6) may prepare legislation to implement any proposed changes involving information technology;

3 (7) shall, before each regular and special legislative session involving budgetary matters, prepare
 4 recommendations to the house appropriations committee and the senate finance and claims committee on the
 5 application of certain budget issues. At a minimum, the recommendations must include procedures for the
 6 consistent application during each session of inflation factors, the allocation of fixed costs, and the personal
 7 services budget. The committee may also make recommendations on other issues of major concern in the
 8 budgeting process, such as estimating the cost of implementing particular programs based upon present law;
 9 and

10 (8) ~~may, for the biennium beginning July 1, 2019, appoint up to six ad hoc nonvoting committee~~
 11 ~~members from the house of representatives. These members may participate in meetings but may not vote~~
 12 consult with and provide recommendations for study and focus to the interim budget committees established in
 13 [section 1]."
 14

15 **Section 8.** Section 5-12-302, MCA, is amended to read:

16 **"5-12-302. Fiscal analyst's duties.** The legislative fiscal analyst shall:

17 (1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish
 18 information bearing upon the financial matters of the state that is relevant to issues of policy and questions of
 19 statewide importance, including but not limited to investigation and study of the possibilities of effecting
 20 economy and efficiency in state government;

21 (2) estimate revenue from existing and proposed taxes;

22 (3) analyze the executive budget and budget requests of selected state agencies and institutions,
 23 including proposals for the construction of capital improvements;

24 (4) make the reports and recommendations that the legislative fiscal analyst considers desirable to
 25 the legislature, ~~and~~ make reports and recommendations as requested by the legislative finance committee and
 26 the legislature, ~~and~~ provide reports, as determined by the legislative fiscal analyst, to the legislative
 27 clearinghouse in accordance with 5-11-210;

28 (5) assist committees of the legislature and individual legislators in compiling and analyzing financial

1 information;

2 (6) assist the revenue interim committee in performing its revenue estimating duties; ~~and~~

3 (7) assist and provide staff for the interim budget committees established in [section 1]; and

4 ~~(7)(8)~~ review all reports submitted to the legislative fiscal analyst and notify the legislative finance
5 committee or interim budget committee, or both, of any concerns the fiscal analyst identifies in a report."
6

7 **Section 9.** Section 17-7-138, MCA, is amended to read:

8 **"17-7-138. Operating budget.** (1) (a) Expenditures by a state agency must be made in substantial
9 compliance with the budget approved by the legislature. Substantial compliance may be determined by
10 conformity to the conditions contained in the general appropriations act and to legislative intent as established
11 in the narrative accompanying the general appropriations act. An explanation of any significant change in
12 agency or program scope must be submitted on a regular basis to the interim budget committee that has
13 ~~program evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5, part 2 budget~~
14 oversight in accordance with [section 1]. An explanation of any significant change in agency or program scope,
15 objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment
16 by the legislative finance committee prior to any implementation of the change. A significant change may not
17 conflict with a condition contained in the general appropriations act. If the approving authority certifies that a
18 change is time-sensitive, the approving authority may approve the change prior to the next regularly scheduled
19 meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive
20 changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that
21 notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately
22 notify as many members as possible of the proposed change and communicate any concerns expressed to the
23 approving authority. The approving authority shall present a report fully explaining the reasons for the action to
24 the next meeting of the legislative finance committee. Except as provided in subsection (2), the expenditure of
25 money appropriated in the general appropriations act is contingent upon approval of an operating budget by
26 August 1 of each fiscal year. An approved original operating budget must comply with state law and conditions
27 contained in the general appropriations act.

28 (b) For the purposes of this subsection (1), an agency or program is considered to have a significant

1 change in its scope, objectives, activities, or expenditures if:

2 (i) the operating budget change exceeds \$1 million; or

3 (ii) the operating budget change exceeds 25% of a budget category and the change is greater than
4 \$75,000. If there have been other changes to the budget category in the current fiscal year, all the changes,
5 including the change under consideration, must be used in determining the 25% and \$75,000 threshold.

6 (2) The expenditure of money appropriated in the general appropriations act to the board of regents,
7 on behalf of the university system units, as defined in 17-7-102, is contingent upon approval of a
8 comprehensive operating budget by October 1 of each fiscal year. The operating budget must contain detailed
9 revenue and expenditures and anticipated fund balances of current funds, loan funds, endowment funds, and
10 plant funds. After the board of regents approves operating budgets, transfers between units may be made only
11 with the approval of the board of regents. Transfers and related justification must be submitted to the office of
12 budget and program planning and to the legislative fiscal analyst.

13 (3) The operating budget for money appropriated by the general appropriations act must be separate
14 from the operating budget for money appropriated by another law except a law appropriating money for the
15 state pay plan or any portion of the state pay plan. The legislature may restrict the use of funds appropriated for
16 personal services to allow use only for the purpose of the appropriation. Each operating budget must include
17 expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3).
18 Each agency shall record its operating budget for all funds, other than higher education funds, and any
19 approved changes on the statewide accounting, budgeting, and human resource system. Documents
20 implementing approved changes must be signed. The operating budget for higher education funds must be
21 recorded on the university financial system, with separate accounting categories for each source or use of state
22 government funds. State sources and university sources of funds may be combined for the general operating
23 portion of the current unrestricted funds."

24

25 **Section 10.** Section 17-7-139, MCA, is amended to read:

26 **"17-7-139. Program transfers.** (1) Unless prohibited by law or a condition contained in the general
27 appropriations act, the approving authority may approve agency requests to transfer appropriations between
28 programs within each fund type within each fiscal year. The legislature may restrict the use of funds

1 appropriated for personal services to allow use only for the purpose of the appropriation. An explanation of any
2 significant transfer must be submitted on a regular basis to the interim budget committee that has ~~program~~
3 ~~evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5, part 2~~ budget oversight in
4 accordance with [section 1]. An explanation of any transfer that involves a significant change in agency or
5 program scope, objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for
6 review and comment by the legislative finance committee prior to any implementation of the change. If the
7 approving authority certifies that a request for a transfer representing a significant change in agency or program
8 scope, objectives, activities, or expenditures is time-sensitive, the approving authority may approve the transfer
9 prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall
10 submit all proposed time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative
11 fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal
12 analyst shall immediately notify as many members as possible of the proposed change and communicate any
13 concerns expressed to the approving authority. The approving authority shall present a report fully explaining
14 the reasons for the action to the next meeting of the legislative finance committee. All program transfers must
15 be completed within the same fund from which the transfer originated. A request for a transfer accompanied by
16 a justification explaining the reason for the transfer must be submitted by the requesting agency to the
17 approving authority and the office of budget and program planning. Upon approval of the transfer in writing, the
18 approving authority shall inform the legislative fiscal analyst of the approved transfer and the justification for the
19 transfer. If money appropriated for a fiscal year is transferred to another fiscal year, the money may not be
20 retransferred, except that money remaining from projected costs for spring fires estimated in the last quarter of
21 the first year of a biennium may be retransferred.

22 (2) For the purposes of subsection (1), an agency or program is considered to have a significant
23 change in its scope, objectives, activities, or expenditures if:

24 (a) the budget transfer exceeds \$1 million; or

25 (b) the budget transfer exceeds 25% of a program's total operating plan and the transfer is greater
26 than \$75,000. If there have been other transfers to or from the program in the current fiscal year, all the
27 transfers, including the transfer under consideration, must be used in determining the 25% and \$75,000
28 threshold."

