

1 HOUSE BILL NO. 443

2 INTRODUCED BY D. SKEES

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE ORGANIZATION OF THE
5 LEGISLATIVE BRANCH; MODIFYING THE LEGISLATIVE FISCAL DIVISION AND LEGISLATIVE FINANCE
6 COMMITTEE; REVISING THE SUPERVISION AND ROLE OF THE LEGISLATIVE FISCAL ANALYST;
7 REQUIRING THE LEGISLATIVE SERVICES DIVISION TO EMPLOY A FISCAL ANALYST; REVISING THE
8 RESPONSIBILITIES OF THE LEGISLATIVE FINANCE COMMITTEE PERTAINING TO THE FISCAL
9 ANALYST; MODIFYING THE LEGISLATIVE AUDIT DIVISION AND LEGISLATIVE AUDIT COMMITTEE;
10 REVISING THE SUPERVISION AND ROLE OF THE LEGISLATIVE AUDITOR; REQUIRING THE
11 LEGISLATIVE SERVICES DIVISION TO EMPLOY A LEGISLATIVE AUDITOR; REVISING THE
12 RESPONSIBILITIES OF THE LEGISLATIVE AUDIT COMMITTEE PERTAINING TO THE LEGISLATIVE
13 AUDITOR; AMENDING SECTIONS 5-12-205, 5-12-301, 5-12-304, 5-13-301, 5-13-302, 5-13-303, 5-13-305,
14 AND 5-13-314, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15

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

17

18 **Section 1.** Section 5-12-205, MCA, is amended to read:

19 **"5-12-205. Powers and duties of committee.** The committee:

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

23 (2) ~~may employ and, in accordance with the rules for classification and pay adopted by the legislative~~
24 ~~council, set the salary of the legislative fiscal analyst. The legislative fiscal analyst shall serve at the pleasure of~~
25 ~~and be responsible for providing services to the committee.~~ may establish a management team or management
26 subcommittee, but shall ensure that all management team or subcommittee meetings are properly noticed and
27 open to the public;

28 (3) may exercise the investigatory powers of a standing committee under chapter 5, part 1, of this

1 title;

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

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

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

8 (5) may accumulate, compile, analyze, and provide information relevant to existing or proposed
9 legislation on how information technology can be used to impact the welfare of the state;

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

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

18 ~~(8) may, for the biennium beginning July 1, 2019, appoint up to six ad hoc nonvoting committee
19 members from the house of representatives. These members may participate in meetings but may not vote~~

20 (8) shall, with the concurrence of the legislative council, set the salary of the legislative fiscal analyst."

21

22 **Section 2.** Section 5-12-301, MCA, is amended to read:

23 **"5-12-301. Legislative fiscal division.** (1) There is a legislative fiscal division. ~~The legislative fiscal
24 analyst shall manage the legislative fiscal division to support the legislative finance committee and carry out the
25 provisions of this chapter.~~

26 (2) (a) The legislative services division shall provide sufficient and appropriate support to the
27 legislative fiscal division in order that it may carry out its statutory duties, within the limitations of legislative
28 appropriations.

1 (b) The legislative fiscal division staff is a principal subdivision within the legislative services division.

2 (c) There is within the legislative services division a legislative fiscal analyst under the supervision of
3 the executive director of the legislative services division.

4 (3) (a) The legislative fiscal analyst is the primary staff person for the legislative finance committee
5 and shall supervise staff assigned to the legislative finance committee. In hiring and employing staff, the
6 legislative fiscal analyst shall use hiring practices and a pay scale approved and implemented by the legislative
7 services division.

8 (b) The legislative finance committee shall select the legislative fiscal analyst with the concurrence of
9 the legislative council."

10

11 **Section 3.** Section 5-12-304, MCA, is amended to read:

12 **"5-12-304. Employees and consultants.** ~~The Subject to 5-12-301, the~~ legislative fiscal analyst may
13 engage personnel and consultants to fulfill the duties of the division within the limits of appropriations for the
14 division. ~~The Subject to 5-12-301, the~~ legislative fiscal analyst may define the duties of personnel engaged and
15 shall fix the salaries of employees in accordance with the rules for classification and pay adopted by the
16 legislative council."

17

18 **Section 4.** Section 5-13-301, MCA, is amended to read:

19 **"5-13-301. Legislative audit division.** (1) (a) There is a legislative audit division. The legislative
20 services division shall provide sufficient and appropriate support to the legislative audit division in order that it
21 may carry out its statutory duties, within the limitations of legislative appropriations.

22 (b) Subject to the requirements of 5-13-304 through 5-13-321, the legislative audit division staff is a
23 principal subdivision within the legislative services division.

24 (2) (a) There is within the legislative services division a legislative auditor under the supervision of
25 the executive director of the legislative services division.

26 (b) The legislative auditor is responsible to manage the division in order to perform the duties
27 imposed by this chapter.

28 (3) The legislative auditor shall maintain audit independence, and the auditor and audit committee

1 shall exercise their duties and responsibilities in accordance with Article V, section 10, of the Montana
2 constitution and this chapter."

3

4 **Section 5.** Section 5-13-302, MCA, is amended to read:

5 **"5-13-302. Appointment and qualifications.** (1) (a) The legislative audit committee shall select the
6 legislative auditor with the concurrence of the legislative council.

7 (b) The committee shall appoint the legislative auditor and, with the concurrence of the legislative
8 council, shall set the legislative auditor's salary in accordance with the rules for classification and pay adopted
9 by the legislative council.

10 (2) The legislative auditor shall hold a degree from an accredited college or university with a major in
11 accounting or an allied field and shall have at least 2 years' experience in the field of governmental accounting
12 and auditing."

13

14 **Section 6.** Section 5-13-303, MCA, is amended to read:

15 **"5-13-303. Term and removal.** (1) (a) The legislative auditor is responsible solely to the legislature.

16 (b) The legislative auditor shall hold office for a term of 2 years beginning with July 1 of each even-
17 numbered year.

18 (2) The ~~committee~~ legislative audit committee, with the concurrence of the legislative council, may
19 remove the legislative auditor for misfeasance, malfeasance, or nonfeasance in office at any time after notice
20 and hearing."

21

22 **Section 7.** Section 5-13-305, MCA, is amended to read:

23 **"5-13-305. Employees, consultants, and legal counsel -- background checks -- cure for**

24 **impairment.** (1) ~~The Subject to 5-13-301, the~~ legislative auditor may appoint and define the duties of
25 employees and consultants who are necessary to carry out the provisions of this chapter within the limitations
26 of legislative appropriations. The legislative auditor shall set the pay for employees in accordance with the rules
27 for classification and pay adopted by the legislative council. The legislative auditor may employ legal counsel to
28 conduct proceedings under this chapter.

1 (2) (a) The legislative auditor may not employ a prospective employee to conduct or supervise audits
2 without conducting or having conducted a background check on the prospective employee. The background
3 check must include a state and federal fingerprint-based check by the Montana department of justice and the
4 federal bureau of investigation. When reporting the results of the background check, the Montana department
5 of justice shall specifically report any previous conviction of the prospective employee for embezzlement or
6 other financial crimes. The purpose of the background and fingerprint checks is to determine whether the
7 prospective employee is an appropriate person to audit the records of one or more state agencies or programs.

8 (b) A copy of the results of the background check must be delivered to the legislative auditor. If the
9 legislative auditor determines, based upon the results of the background and fingerprint checks, that a
10 prospective employee is not an appropriate person to audit one or more state agencies or programs, the
11 legislative auditor may not employ the prospective employee.

12 (3) The legislative auditor shall inform the legislative council and the legislative audit committee in
13 writing of an administrative policy or rule adopted under 5-11-105 that may impair the independence of the
14 division, along with a statement of the reasons for the opinion and suggested changes to cure the impairment.
15 The legislative council shall review the rule in question and adopt a revision that is generally applicable to the
16 legislative branch and that is designed to cure the impairment. While the impairment exists, the legislative audit
17 committee may adopt a specific exemption to the questioned rule that states the alternative rule to be employed
18 under the exemption."

19

20 **Section 8.** Section 5-13-314, MCA, is amended to read:

21 **"5-13-314. Employment protection.** An employee of the state of Montana or an authorized
22 contractor who provides information to the committee, the legislative council, the legislative auditor, or the
23 legislative auditor's authorized designee may not be subject to any penalties, sanctions, retaliation, or
24 restrictions in connection with the employee's or contractor's employment as a result of the disclosure of
25 information unless the employee or contractor disclosing the information has violated state law."

26

27 NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

28

- END -