

## 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 AND A TERMINATION 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; AND

4 (F) LONG-RANGE PLANNING BUDGET COMMITTEE TO OVERSEE THE BUDGET ACTIVITIES RELATED TO LONG-  
 5 RANGE PROGRAM IMPLEMENTATION ISSUES CONSIDERED BY THE SUBCOMMITTEE DURING THE SESSION.

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

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

11 ~~(5) THE LONG-RANGE PLANNING JOINT SUBCOMMITTEE MAY REFER ISSUES TO AN INTERIM BUDGET~~  
 12 ~~COMMITTEE PROVIDED FOR IN SUBSECTION (2) IF IT DETERMINES THAT PROGRAM IMPLEMENTATION AND OVERSIGHT ON~~  
 13 ~~ISSUES CONSIDERED BY THE SUBCOMMITTEE DURING THE SESSION COULD BE ENHANCED GIVEN THE DUTIES IN [SECTION~~  
 14 ~~4].~~

15  
 16 NEW SECTION. Section 2. Appointment and composition **COMPOSITION of interim budget**  
 17 **committees -- compensation.** (1) ~~Appointments to interim budget committees must be made by the time of~~  
 18 ~~adjournment of the legislative session.~~

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

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

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

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

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

1           ~~(5)~~(2) Members of the committees are entitled to receive compensation and expenses as provided in  
2 5-2-302.

3  
4           NEW SECTION. Section 3. Officers of interim budget committees -- vacancies. (1) The presiding  
5 officer and vice presiding officers of the interim budget committee shall be the presiding officer and vice  
6 presiding officers of the joint budget subcommittee that consider agency budgets consistent with the agency  
7 oversight established in [section 1] during the legislative session.

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

13  
14           NEW SECTION. Section 4. Duties of interim budget committees. (1) Each interim budget  
15 committee IN [SECTION 1(2)(A) THROUGH (2)(E)] shall:

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

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

20 ~~and~~

21           (c) review programs discussed in the respective subcommittee during the legislative session;

22           (D) REVIEW QUARTERLY EXPENDITURES AND BUDGET TRANSACTIONS AND COMPARE THOSE TRANSACTIONS  
23 TO THE BUDGET ADOPTED BY THE LEGISLATURE;

24           (E) REPORT BUDGET OBSERVATIONS AND RECOMMENDATIONS TO THE LEGISLATIVE FINANCE COMMITTEE AT  
25 EACH QUARTERLY MEETING; AND

26           (F) FORWARD ANY RECOMMENDATIONS FOR PROPOSED LEGISLATION TO THE LEGISLATIVE FINANCE  
27 COMMITTEE OR RELEVANT INTERIM COMMITTEE AND MAY NOT DIRECTLY REQUEST LEGISLATION.

28           (2) ~~Each~~ BEGINNING IN SEPTEMBER OF EACH ODD-NUMBERED YEAR, EACH interim budget committee

1 COMMITTEE IN [SECTION 1(2)(A) THROUGH (2)(E)] shall meet quarterly WITHIN THE WEEK PRIOR TO THE QUARTERLY  
 2 LEGISLATIVE FINANCE COMMITTEE MEETINGS AND NOT FEWER THAN HALF OF EACH COMMITTEE'S MEETINGS MUST BE  
 3 HELD BY VIDEOCONFERENCE.

4 (3) BEGINNING IN SEPTEMBER OF EACH ODD-NUMBERED YEAR, THE INTERIM BUDGET COMMITTEE PROVIDED  
 5 FOR IN [SECTION 1(2)(F)] SHALL MEET EACH DECEMBER AND JUNE WITHIN THE WEEK PRIOR TO THE QUARTERLY  
 6 LEGISLATIVE FINANCE COMMITTEE MEETINGS TO REVIEW PROJECT STATUS IMPLEMENTATION THROUGHOUT THE INTERIM  
 7 AND REPORT BUDGET CONSIDERATIONS AND RECOMMENDATIONS TO THE LEGISLATIVE FINANCE COMMITTEE.

8 ~~(3)~~(4) The legislative fiscal division shall:

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

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

11 (5) IF AN INTERIM BUDGET COMMITTEE PRODUCES A REPORT OR RECEIVES A REPORT FROM AN AGENCY, THE  
 12 REPORT MUST ALSO BE PROVIDED TO THE APPROPRIATE INTERIM COMMITTEE THAT HAS AGENCY OVERSIGHT OVER THE  
 13 SUBJECT MATTER DISCUSSED IN THE REPORT.

14 (6) THE LEGISLATIVE FINANCE COMMITTEE MAY DELEGATE SPECIFIC STUDIES OR ANALYSIS TO AN INTERIM  
 15 BUDGET COMMITTEE AND MUST CONSIDER ALL RECOMMENDATIONS FOR POTENTIAL LEGISLATION.

16

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

18 **"5-2-205. Authority for standing committees to meet during interim.** (1) Except as provided in 5-  
 19 2-202, [sections 1 through 4], and subsection (2) of this section, a standing committee of the legislature, as  
 20 provided for in legislative rules, may not meet during the interim between regular legislative sessions.

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

23

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

25 **"5-2-302. Compensation and expenses when legislature not in session.** When the legislature is  
 26 not in session, a member of the legislature, while engaged in legislative business with prior authorization of the  
 27 appropriate funding authority, is entitled to:

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

- 1           (2) expenses as provided in 2-18-501 and 2-18-502; and
- 2           (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
- 3 time (from midnight to midnight), or portion of a 24-hour period, spent on authorized interim, interim budget, or
- 4 administrative committee legislative business or as otherwise provided by law. However, if time spent for
- 5 business other than authorized legislative interim, interim budget, or administrative committee business or
- 6 business related to 5-11-305 results in lengthening a legislator's stay away from home into an additional 24-
- 7 hour period, the legislator may not be compensated for the additional day."

8

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

10           ~~"5-12-205. Powers and duties of committee.~~ The committee:

11           ~~(1) may organize, adopt rules to govern its proceedings, form subcommittees, and meet as often as~~

12 ~~necessary, upon the call of the presiding officer, to advise and consult with the legislative fiscal analyst;~~

13           ~~(2) may employ and, in accordance with the rules for classification and pay adopted by the legislative~~

14 ~~council, set the salary of the legislative fiscal analyst. The legislative fiscal analyst shall serve at the pleasure of~~

15 ~~and be responsible for providing services to the committee.~~

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

17 ~~title;~~

18           ~~(4) shall monitor the information technology policies of the department of administration with specific~~

19 ~~attention to:~~

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

21           ~~(b) the evaluation of proposed information technology policy changes and the fiscal implications of the~~

22 ~~proposed changes and shall provide written responses to the department of administration communicating the~~

23 ~~committee's positions and concerns on proposed policy changes;~~

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

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

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

27           ~~(7) shall, before each regular and special legislative session involving budgetary matters, prepare~~

28 ~~recommendations to the house appropriations committee and the senate finance and claims committee on the~~

1 application of certain budget issues. At a minimum, the recommendations must include procedures for the  
 2 consistent application during each session of inflation factors, the allocation of fixed costs, and the personal  
 3 services budget. The committee may also make recommendations on other issues of major concern in the  
 4 budgeting process, such as estimating the cost of implementing particular programs based upon present law;  
 5 and

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

10

11 **Section 7.** Section 5-12-302, MCA, is amended to read:

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

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

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

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

20 (4) make the reports and recommendations that the legislative fiscal analyst considers desirable to  
 21 the legislature; ~~AND and~~ make reports and recommendations as requested by the legislative finance committee  
 22 and the legislature, ~~and provide reports, as determined by the legislative fiscal analyst, to the legislative~~  
 23 ~~clearinghouse in accordance with 5-11-210;~~

24 (5) assist committees of the legislature and individual legislators in compiling and analyzing financial  
 25 information;

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

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

28 ~~(7)(8)~~ review all reports submitted to the legislative fiscal analyst and notify the legislative finance

1 committee or THE APPROPRIATE interim budget committee, or both, of any concerns the fiscal analyst identifies in  
2 a report."

3

4 **Section 8.** Section 17-7-138, MCA, is amended to read:

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

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

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

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

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

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

24 **Section 9.** Section 17-7-139, MCA, is amended to read:

25 **"17-7-139. Program transfers.** (1) Unless prohibited by law or a condition contained in the general  
26 appropriations act, the approving authority may approve agency requests to transfer appropriations between  
27 programs within each fund type within each fiscal year. The legislature may restrict the use of funds  
28 appropriated for personal services to allow use only for the purpose of the appropriation. An explanation of any



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

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NEW SECTION. Section 10. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 5, chapter 12, and the provisions of Title 5, chapter 12, apply to [sections 1 through 4].

NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval.

NEW SECTION. SECTION 12. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2025.

- END -